

Exhibit A

Attachment 1

Jacquelyn Callanen April 20, 2022 Deposition Excerpts

Transcript of the Testimony of
Jacquelyn Callanen

Date:

April 20, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

Jacquelyn Callanen

April 20, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO,)
ET AL)

vs.) CASE NO. 5:21-CV-844-XR

GREGORY W. ABBOTT, ET AL)

OCA-GREATER HOUSTON, ET AL)

vs.) CASE NO. 1:23-CV-780-XR

JOHN SCOTT, ET AL)

HOUSTON JUSTICE, ET AL)

vs.) CASE NO. 5:21-CV-848-XR

GREGORY WAYNE ABBOTT, ET AL)

LULAC TEXAS, ET AL)

vs.) CASE NO. 1:21-CV-0786-XR

JOHN SCOTT, ET AL)

MIFAMILIA VOTA, ET AL)

vs.) CASE NO. 5:21-CV-0920-XR

GREG ABBOTT, ET AL)

UNITED STATES OF AMERICA)

vs.) CASE NO. 5:21-CV-1085-XR

THE STATE OF TEXAS, ET AL)

ORAL VIDEOTAPED DEPOSITION

JACQUELYN CALLANEN

APRIL 20, 2022

1 ORAL VIDEOTAPED DEPOSITION OF JACQUELYN CALLANEN,
2 produced as a witness at the instance of the Plaintiffs
3 and duly sworn, was taken in the above-styled and
4 numbered cause on the 20TH day of April, 2022, from
5 9:27 a.m. to 7:07 p.m., before Sarah A. Prugh, Certified
6 Shorthand Reporter in and for the State of Texas,
7 reported by machine shorthand at the Offices of The
8 Mexican American Legal Defense and Educational Fund, 110
9 Broadway Street, Suite 300, San Antonio, Texas, pursuant
10 to the Federal Rules of Civil Procedure and the
11 provisions stated on the record or attached hereto.

1 you just let me know?

2 A. Yes, sir.

3 Q. And if you answer a question without asking for
4 a clarification, I obviously will assume that you
5 understand it; is that fair?

6 A. Yes, sir.

7 Q. Your attorney may object to some of my
8 questions and that's fine. Those objections are for the
9 judge to consider later. But as long as your attorney
10 does not instruct you not to answer, you should answer
11 my questions. Does that make sense?

12 A. Yes, sir.

13 Q. I will try to take a break every hour or every
14 90 minutes or so. And if you need a break at any point
15 before then, just feel free to let me know.

16 A. Thank you.

17 Q. The only caveat there is that if I have asked a
18 question, I will ask that you answer it before we go to
19 break.

20 A. Yes, sir.

21 Q. Is there anything that might impair your
22 ability to testify honestly and truthfully today?

23 A. No.

24 Q. Have you taken any medication, alcohol or drugs
25 that would impair your testimony?

1 A. No. Afterwards.

2 MR. WHITE: So strike that.

3 THE WITNESS: I'm sorry. I will behave.

4 (Exhibit A marked)

5 Q. (By Mr. White) So I would like to hand you an
6 exhibit and I will ask the court reporter to mark this
7 as Exhibit A. If you will go ahead and flip to the
8 second page, you will see the title of the document.
9 Have you seen this document before?

10 A. Yes, sir.

11 Q. What is it?

12 A. It is basically the legal means that gets me
13 here to the deposition.

14 Q. So one thing I just wanted to explain in how
15 this deposition will differ from your previous testimony
16 in this case from a few weeks ago is that today you are
17 being deposed under Federal Rule of Civil Procedure 30
18 (b)(6) which means that the testimony that you are
19 giving is not just in your personal capacity but on
20 behalf of your office. Does that make sense?

21 A. Okay.

22 Q. So do you understand that you are being offered
23 by the office of the Bexar County Elections
24 Administrator to testify on their behalf today?

25 A. Yes.

1 Q. Can you flip ahead to -- there aren't page
2 numbers here. If you flip ahead, there is maybe six or
3 seven pages and there is a heading called deposition
4 topics at the bottom. You can take a second to get
5 there.

6 A. Okay. This is definitions.

7 Q. I think it is a couple of pages after that.

8 A. Okay. I am there, yes.

9 Q. Have you seen these deposition topics before?

10 A. Yes.

11 Q. And are you prepared to testify today as to
12 each of the topics on behalf of your office?

13 A. Yes.

14 Q. Okay. Can you please tell me what you did to
15 prepare for today's deposition?

16 A. Again, just reviewed SB-1 again, HB-6, reviewed
17 all of it, went through some election records, you know,
18 just went through -- like the topics were A to H. And
19 so in some of these, they were -- they don't apply to
20 Bexar County. So just going over and seeing so that I
21 can give you as much information as possible.

22 Q. Yeah. Thanks so much. We definitely
23 appreciate that. What election records did you review?

24 A. There are many and sundry. They are different
25 so I was looking at obviously how many people voted in

1 people that come in. Well, again, things out of our
2 control with COVID and people not going back to work, it
3 was very difficult for the temp service to send us the
4 people we needed. So when we would put in a request for
5 15 people, they could get us eight. And so that added
6 to it. That was a constant challenge where we had empty
7 desks I mean because we had this whole temp area. And
8 that was a frustrating piece of it.

9 Q. And you testified a moment ago that this was
10 sort of a daily occurrence with people calling in. Have
11 you memorialized anywhere exactly how many calls you
12 received about this or --

13 A. No. I mean I was at one point -- in the normal
14 course of a day, we would receive maybe 100 calls,
15 80-90-100 calls in the normal course of a day. When we
16 are in a big election, we will receive like 1200 calls a
17 day. I mean it just zoom, goes up that high.

18 And so again, this one, we were taking
19 off. I mean I can go back and collect those numbers
20 because the staff each day that when they went in to
21 empty the voice mail buckets, they were taking off --
22 taking names off, anywhere from 75 to 150 each day, the
23 people were requesting. So those are our rough numbers.
24 No, we have not taken time to go back and compile it all
25 together.

1 Q. Okay. So is it fair to say that one of your
2 concerns with SB-1 is the provision in SB-1 that
3 prevents you from distributing mail ballot applications
4 to people other than --

5 A. Absolutely.

6 MS. HUNKER: Objection, form.

7 Q. (By Mr. White) And this provision is going to
8 be in effect for the November general election; correct?

9 A. Correct.

10 Q. And it will be in effect for all subsequent
11 future elections; correct?

12 A. Correct.

13 Q. During your prior testimony, you were asked
14 about uniformity and about whether that was a basis for
15 Senate Bill 1. Is it fair to say that during the 2020
16 election, some counties were implementing new voting
17 procedures that you were not implementing in Bexar
18 County?

19 A. Correct.

20 Q. And when you were asked about how those
21 differences between counties affected voters, you
22 testified that some people were upset that they had to
23 drive downtown to your office to drop off the mail
24 ballot. But in Harris County, they could drop it off at
25 a drop box. Am I restating your testimony accurately?

1 A. Correct.

2 MS. HUNKER: Objection, form.

3 Q. (By Mr. White) How were you made aware that
4 people were upset about this?

5 A. They would come in to our office to hand us
6 their ballot and let us know.

7 Q. Did voters also call your office?

8 A. Absolutely.

9 Q. Do you have a sense of how many complaints you
10 got about this issue?

11 A. Again, no. I haven't compiled it. I know it
12 was daily. I mean we would have voters come in I mean a
13 number of times. And I guess the dynamics have changed
14 so much, that people think they can like say and talk
15 differently. You know, there is not a level of respect.

16 And so even from our senior citizens who
17 were returning their mail ballots, they would come in
18 with two and we could only accept one. And they didn't
19 have the wife in the car, they didn't have it or vice
20 versa. And these people would get really really upset
21 and basically, just take the other ballot and throw it
22 on the floor and do with this what you want. I mean
23 they were that frustrated. And it just -- that hurt.

24 Q. But with respect to people complaining about
25 procedures in Bexar County compared to Harris County,

1 what was it that made folks upset?

2 A. It was the lack of drop boxes that --

3 MS. HUNKER: Objection.

4 THE WITNESS: Other opportunities to drop
5 it off somewhere else other than our office.

6 MS. HUNKER: Objection, form. Sorry. I
7 thought you were done. My apologies.

8 THE WITNESS: I am like if they came to
9 our office and we had a chance to explain to them the
10 why, the reason. But again, it was the public
11 narrative, the newspapers. I mean, again, we have the
12 San Antonio Express News. But if you open the San
13 Antonio Express News on any given day, it is filled up a
14 whole lot with news from Houston because it is a Hearst
15 paper and they, you know, they downsized the Express
16 News here. And so all of these articles were in there
17 about the numerous drop boxes and the overnight voting
18 and all of this stuff, that our voters who took the
19 paper, read the paper, whatever that may be, projected
20 themselves that they should have the same thing.

21 Q. (By Mr. White) I see. So people saw what was
22 going on in Harris County and were telling you --

23 A. Naturally.

24 Q. -- and your staff that they wanted those same
25 procedures as well?

1 A. Yes.

2 Q. So is it fair to say that people just wanted an
3 easier way to deposit their ballots?

4 MS. HUNKER: Objection, form.

5 THE WITNESS: Yes. And again, I think
6 I -- again, I hesitate to say yes but I think it is also
7 a function of the COVID. Because prior to SB-1 and
8 prior to the 2020 when we started accepting the mail
9 ballots over a longer period of time, some of the voters
10 didn't understand that that was for a one time deal.
11 And again, you know, that was for a one time deal. Then
12 things changed and they heard about Harris County so
13 there was just a lot of confusion out there.

14 Q. (By Mr. White) Well, when you say there was
15 confusion, you testified last time that it was more that
16 people were just upset about not having access to the
17 same procedures and not about confusion. So I just want
18 to clarify what exactly --

19 A. Like I said, I think it was both. Because as I
20 had stated before, our usual voters, the ones who have
21 been voting with us for a long time by mail, you know,
22 they had our applications stored in a very safe place at
23 home. So the first day of the year or the first
24 weekend, they knew they were going to send that in. And
25 that is where this basically started because they sent

1 in the old application that was not grandfathered in to
2 the new process for SB-1. And so we had to reject all
3 of those applications.

4 And so at that point, that is sort of
5 where the ill-will, the confusion, whatever you --
6 whatever word we put on it, started.

7 Q. I see.

8 A. And then it just sort of cascaded.

9 Q. Got it. I was referring specifically to how
10 Harris County had separate procedures for drop boxes.
11 And you had testified previously that that provision
12 didn't necessarily cause confusion. Sorry. Strike
13 that. Let me rephrase.

14 You had testified previously that the fact
15 that Harris County had these drop boxes was angering
16 voters in Bexar County.

17 A. Correct.

18 Q. But it wasn't confusing them. Am I stating
19 your testimony correctly?

20 A. Yes.

21 Q. Now, last time you were asked about, again,
22 uniformity in elections being one of the bases for
23 Senate Bill 1. And you testified that that doesn't
24 work. Because in all of my years, we have our
25 procedures and our codes and everything set by the

1 secretary of state.

2 A. Correct.

3 Q. Prior to SB-1, in what ways did the secretary
4 of state's office insure that counties were following
5 the same election procedures?

6 A. Again, we have a yearly law seminar that is
7 hosted in Austin where all 254 counties go and hear the
8 same presentations and all of that. And it is held in
9 July. It is either the last week of July or the first
10 week of August. And so from that point on, we have --
11 if anything is changing, if we have new forms, if we
12 have new directives, we have from that July or August to
13 prepare for the November election. This didn't happen
14 because SB-1 came out of the third session after all of
15 this had gone on. And it was on a short turnaround
16 where it became effective in December. And the
17 secretary of state's office and us didn't have the lead
18 time that we normally would have had.

19 And again, that is an internal problem.
20 We did not project that, you know, to the voters. But
21 that was another huge sense of frustration from our
22 office. Because you know, forms and changes and paper
23 shortages and design of the envelopes, I mean everything
24 was going to be new. And it didn't magically appear.

25 Q. Let's unpack that a little bit because I wanted

1 in the media, oh, you know, they are going to be able to
2 film you and they can do this, they can do whatever they
3 want.

4 In reality, that all was tamed down when
5 it came through the committee substitute. You know,
6 that was sort of gone back to normal. But the election
7 judges are really nervous about it again because this --
8 we have very very very well trained, very very well
9 meaning poll watchers that we have had forever. It is a
10 great relationship. As I said, it is a necessary part.

11 But now we have these aggressive poll
12 watchers that are coming in. And the judges are not --
13 they are nervous. They are absolutely nervous, the ones
14 who have stuck with us. Because SB-1 says, you know,
15 they are going to go to jail if they, you know, say
16 anything to the poll watcher and that is how they feel.

17 So we do a lot of talking. We do a lot of
18 role modeling, you know, on how far they can do when
19 they are in training. This is part of our training now
20 that the poll watchers, you know, can do this, ask this,
21 see this, follow you back. That was problematic in
22 March because a number of our election officials were
23 very nervous. Because again, this new SB-1, you know,
24 in the past says they can follow you. And so they are
25 following them in the cars. And it makes them nervous

1 because, you know, you can't lose them. You can't --
2 you know, it is like -- and so that's raises the bar so
3 to speak.

4 Q. Right. So I wanted to ask about those
5 trainings that you were talking about. So when did your
6 office train poll workers about the new provision in
7 SB-1 relating to poll watchers?

8 A. Well, basically in February.

9 Q. February of 2022?

10 A. Yeah.

11 Q. What did that training consist of?

12 A. It is a two hour. If you are already an
13 election official with us -- if you have gone through
14 our training, because our training to become an election
15 official is an eight hour training. We do four hours of
16 law and we do four hours of equipment.

17 If you have been certified and you are an
18 election worker, then prior to every election, you have
19 mandatory training that is a two hour training. And at
20 that two hour training, it is oh, look, we have new
21 forms. Oh, look we are going to do this. So all of our
22 officials had to come to that training for two hours.

23 So it was just -- it is a constant thing
24 that whole month. Because again, like I said, we are
25 doing 1200-1400 people and so they are all hearing the

1 same thing. And the one thing I did -- when I say I did
2 because everybody growled at me, but we put in their
3 election kit the secretary of state's office is
4 responsible for training.

5 Okay. So they have an election
6 judge/clerk handbook that they put out and it contains
7 all of the new rules and everything in it. It is a
8 pamphlet that is maybe 30 or 40 pages long, you know.
9 And forever, we have always given that handbook in our
10 kit so that the election officials can see that on this
11 page, this is -- you know, if somebody is asking you
12 about inside of the 100-foot line, will you turn to page
13 17? This is where it is. You can show. So they have
14 always had that handbook.

15 Well, for March, the secretary of state
16 put out a new handbook for poll watchers. They didn't
17 put any of the new laws. They didn't update the
18 election officials handbook. So they did the poll
19 watchers but they didn't do the election officials. So
20 it was like okay, how are we going to tell the judges?

21 So we made copies. I provided every one
22 of our election sites with a poll watcher handbook. And
23 so we had gone through that to say they, you know, they
24 can see this, they can see this. So that, again, that
25 was the only direct legal new form that had because

1 secretary of state's office completely did not do the
2 new handbook for the judges or the clerks. They have
3 since put one out but it was not ready for March.

4 Q. Okay. Let me ask a couple of follow-up
5 questions about that answer. So the poll watcher
6 handbook that you distributed?

7 A. Yes.

8 Q. That was a handbook that you created or was
9 that -- was it from the secretary of state?

10 A. Secretary of state's office, yes.

11 Q. That you then distributed?

12 A. Yes.

13 Q. And the trainings that you mentioned that
14 occurred in February of this year, you mentioned that
15 there was like a two hour training. That was for
16 returning pole workers?

17 A. Yes.

18 Q. And for the new folks, there was the eight hour
19 training?

20 A. Yes, sir.

21 Q. And you mentioned as part of that eight hour
22 training, there were four hours of law?

23 A. Yes, sir.

24 Q. What were the -- what happened in the four
25 hours -- strike that. What did you -- strike that as

1 well. Who was running these trainings?

2 A. My trainer, myself and my trainer.

3 Q. Who is your trainer?

4 A. Her name is Mandisa Parker. She has been with
5 me for eight years and she is fantastic.

6 Q. She is an employee in your office?

7 A. Yes.

8 Q. What did you discuss during the four hours of
9 law aspect of this training for new poll workers?

10 A. Again, from the procedures, the photo ID part,
11 you know, what documents they have to have from opening
12 the polls to setting up your poll site, how you have to
13 get their signatures here, how you have to see their
14 photo ID, how they need to sign here, here is if they
15 need a provisional ballot, here is if -- you know, if
16 they need assistance, if they need an interpreter or if
17 they need -- so there is -- there is a good hundred
18 forms -- hundred different forms that we give somebody,
19 you know, for every-every possibility so that everybody
20 can vote that is eligible. So they need to know that.

21 Q. Okay.

22 A. And that is the four hours of law and that part
23 is included in the poll watcher who is allowed to be in
24 the poll site.

25 (Exhibit B marked)

1 150.

2 Q. And yes, I will ask about Laura Pressley. Do
3 you know -- do you happen to know if the number of poll
4 watchers who reported to Bexar County polling sites in
5 this year's primary was greater than previous election
6 cycles?

7 A. Yes, yes, the answer is yes.

8 Q. More than 2020 primary election?

9 A. Yes.

10 Q. Do you have a sense of how much -- how many
11 more poll watchers appeared?

12 A. Probably 25 percent more.

13 Q. And that is an estimate?

14 A. Right.

15 Q. Are there particular polling places where poll
16 watchers appear more frequently than others in Bexar
17 County?

18 A. No, no, surprisingly not.

19 Q. So your testimony is that they tend to
20 appear -- do you think they are evenly distributed
21 across points?

22 A. Probably not evenly distributed. But again,
23 there is more of them. They know for the primary --
24 2022 primary, a number of them which made no sense but a
25 number of them were at the Republican sites which were

1 outside 410 and 1604 here in the
2 north/northwest/northeast part.

3 Q. Sorry. What is 410 and what is 1604?

4 A. I'm sorry. Yes. In San Antonio, it is like
5 okay, everybody knows. We have two circles that go
6 around the town. One is 410, Loop 410, and then there
7 is an outer band that goes around town. It is 1604.
8 And the growth that is happening, the explosive growth
9 that is happening in Bexar County is in that northward
10 part towards heading towards Austin. It is growing.

11 Q. Okay. And you had testified last time and also
12 just a moment ago someone named Laura Pressley had been
13 training some of these poll watchers?

14 A. Correct.

15 Q. Who is Larua Pressley.

16 A. Laura Pressley is a self-proclaimed election
17 expert, Doctor Laura Pressley. She is a woman who ran
18 for city council in Austin and she lost a number of
19 years ago. At that point, much like we see today, the
20 candidates don't take responsibility for them losing.
21 It was something that they had no control over so it had
22 to be something that -- the election fraud, the election
23 equipment, you know, caused them to lose the election.
24 And so she is a zealot now that has
25 questioned the election integrity. 2020 just emboldened

1 her more.

2 Q. Okay. When did he run for -- sorry. Strike
3 that. When did she lose her race for city council?

4 A. I am not sure. I want to say like '12, 2012
5 maybe.

6 Q. Okay. And since 2012, she has been sort of an
7 activist?

8 A. She is an activist, yes. And she started a lot
9 at the legislative committee meetings. She is always
10 there. And you know, wanting to make changes and this
11 and that.

12 Q. And how long has she been training poll
13 watchers for?

14 A. She started slowly in 2020. But since the 2020
15 narrative, she has ramped up dramatically.

16 Q. Is she affiliated with any political campaign?

17 A. Not to my knowledge. She forms her own PACs
18 with the -- and she sets up with the ethics commission
19 so that she can have her poll watchers in the sites so
20 that she doesn't have to go through a candidate. And in
21 the primary, she found two unopposed state candidates,
22 state wide candidates who signed the certificates for
23 her poll watchers.

24 Q. Is she trained -- is she training poll watchers
25 on behalf of particular candidates?

1 A. No.

2 Q. And how many poll watchers did she train for
3 the March primary?

4 A. Like I said, I was told -- she was telling
5 everybody she had trained 150 in Bexar County.

6 Q. And you were told that by whom?

7 A. By someone in the Republican party.

8 Q. Who in the Republican party?

9 A. The chair, John Austin.

10 Q. When did he tell you this?

11 A. At one of our many meetings. When we are
12 having a joint primary, we have numerous meetings, you
13 know, with the two chairs. And they are executive
14 directors.

15 Q. Okay. Do you know if she -- sorry. Strike
16 that. Is Laura Pressley doing these trainings herself?

17 A. Yes.

18 Q. And do you know how -- strike that. Do you
19 know anything about context of the trainings that she is
20 performing?

21 A. Yes.

22 Q. And what do you know about them?

23 A. You are going to get me in trouble. You are
24 going to get me in trouble. One of the poll watchers
25 that she had trained came in 2020 when she started. We

1 were, of course, one of the lucky counties. She went to
2 the big counties so we were one of the lucky counties.

3 As we had her poll watchers in our central
4 counting station, quite hectic, you know, late at night,
5 we had her poll watchers taking pictures in the central
6 count station which is against the law, and on and on
7 and on. And so at the end as we were leaving like at
8 2:00 o'clock in the morning, whatever that may be, one
9 of her assigned poll watchers happened to leave her
10 manual that was prepared by Laura Pressley.

11 Q. Okay. So I want to unpack that a little bit
12 and I want to start with this poll watcher that you just
13 referred to, this was during the 2020 general election?

14 A. Yes, sir, November.

15 Q. And you said that they were -- that one or more
16 of these watchers were taking pictures at where?

17 A. Inside of the central counting station.

18 Q. The central counting station. I'm sorry. What
19 is the central counting station?

20 A. I'm sorry. That is probably the end result.
21 That is where all of the votes are tabulated. It is
22 the, you know, the sacred heart of every part of the
23 elections office.

24 Q. And that is where all of those votes for Bexar
25 County are tabulated?

1 A. Yes.

2 Q. How did she get access to the center the
3 central counting station?

4 A. Again, they were appointed as poll watchers.

5 Q. So they can access central tabulation center?

6 A. They can -- yes, they can watch it, yes.

7 Q. But they are not allowed to take photos?

8 A. No, and they sign a sworn statement to that
9 fact, that that is part of the poll watcher. I swear I
10 don't have it. I will not. But yeah.

11 Q. And what did you -- how did you hear about
12 this?

13 A. I heard about it when the pictures were on
14 Facebook and they all started going a little bit crazy.

15 Q. Okay. Did you report this poll watcher to law
16 enforcement?

17 A. Yes.

18 Q. What happened after you did that?

19 A. It went to the attorney general's office.
20 Again, when you are in the central count, Graham, we are
21 required and we do have an armed sheriff in the room
22 with us. That is sort of antiquated because so many
23 people now are technology and, you know, votes come
24 through modems, and instead of having paper ballots in
25 boxes that the official would have had to watch. But

1 there are still there and we are grateful for it. So
2 every minute that we are in the central counting
3 station, there is a security guard, a sheriff's deputy
4 with us.

5 Q. Who posted these photos on Facebook?

6 A. This woman that had taken them. And then it
7 led to a whole big -- another big lawsuit that is still
8 sitting out there where they said they had a writ of
9 mandamus. I don't know what that means. So that just
10 goes on and on and on.

11 Q. So she posted the photos herself online?

12 A. Yes.

13 Q. Do you know what her name is?

14 A. Charlene Vanderpoorten -- Vander -- I think it
15 is P-O-O-R-T-E-N, Vanderpoorten. She was with Cynthia
16 Brehm.

17 Q. I'm sorry. Who is Cynthia Brehm?

18 A. Cynthia Brehm is another well known. I saw
19 Nina's eyes go up. She knew. Cynthia Brehm had been
20 the chair of the Republican party. And then again, when
21 she was no longer the chair, she became the super zealot
22 Laura Pressley leader for Bexar County.

23 Q. And sorry. I am -- just to be clear, when you
24 say that this poll watcher Charlene was with Cynthia
25 Brehm, what do you mean?

1 A. They were the two that were assigned that came
2 in.

3 Q. They were both at the central counting station?

4 A. Yes. Again, the election code specifies that
5 any one candidate or PAC can assign two to any function
6 that we are doing to two at one location. And so they
7 came as that two. It was Cynthia and Charlene that
8 came. You know, and then there is other people.

9 Q. Do you happen to know if it was just Charlene
10 that was taking photos or were both of them?

11 A. Again, we think it was just Charlene.

12 Q. And did Charlene send those photos to law
13 enforcement after she took them?

14 A. Again, I don't know.

15 Q. Do you to if she sent those photos to your
16 office or any of your staff?

17 A. Oh, no, no.

18 Q. And you testified a moment ago that -- sorry.
19 Strike that. So you reported this to the attorney
20 general's office?

21 A. Uh-huh.

22 Q. And did you hear anything back from the office
23 at all?

24 A. Huh-uh.

25 Q. Did you report this to the two individuals that

1 Q. Did you bring it up?

2 A. No, because we were on -- there is, in my mind,
3 there is a difference between like when they come in and
4 they are asking informational stuff that I have sent
5 them. And then there is a difference when they come in
6 doing their investigation of our processes because of
7 other complaints they have gotten. There is two. It
8 goes both ways.

9 Q. And at this meeting, you gave them the pole
10 watcher manual?

11 A. I showed it to them.

12 Q. Showed it to them. What was their reaction to
13 seeing it?

14 A. Pretty surprised. And especially when they got
15 to the third bullet that said, you know, confrontation,
16 that that surprised both of them.

17 Q. Why were they surprised?

18 A. Just again, because of what they have been
19 hearing from a lot of places around the state about
20 this. We are not the only ones that are bringing this
21 up to them. But my understanding is -- like I am the
22 only one lucky enough to have gotten their book.

23 Q. They told you that?

24 A. So --

25 Q. So I just want it to be clear. They told you

1 that they had received similar complaints from other --

2 A. Yes, sir.

3 Q. -- county officials in the 2020 general
4 election?

5 A. Yes.

6 MS. HUNKER: Objection, form.

7 THE WITNESS: And this one, in the 2022
8 primary.

9 Q. (By Mr. White) Okay. But this meeting happened
10 before the March 2022 primary?

11 A. Yes.

12 Q. And did they say they would take any action in
13 response to complaints that they had been hearing?

14 A. Just they are still gathering all of this
15 information.

16 Q. Okay. Were you aware of any other illegal
17 activity from poll watchers in the 2020 election?

18 MS. HUNKER: Objection, form.

19 THE WITNESS: No, just again,
20 intimidation. Our election officials would call and,
21 you know, ask us how far they could, you know, like
22 literally push the poll watchers. The poll watchers
23 were interacting. We had one poll watcher that was --
24 and I'm sorry. I don't remember what side it was. But
25 that had started to, as I said, we have told the judges

1 and we have instructed the judges that they can't be
2 near the voters, you know, when they are actually
3 voting. But then they all have to cross the room.

4 And with our new system they have to take
5 the ballot that has been printed and put it in a
6 tabulator, the DS-200. It looks like a trash can. You
7 go put it over there.

8 And one site, one of the poll watchers had
9 been aggressive enough that was telling the voters that
10 as they exited their voting station, that they had to
11 hand the ballot to the poll watcher so that he could see
12 it was filled out. And they give it to them before they
13 put it in the tabulator. And of course, that is totally
14 illegal.

15 Q. (By Mr. White) And this was during 2020?

16 A. '22.

17 Q. Let me take a step back for a second then. And
18 you had testified earlier today and I think last time
19 that your office has lost election officials because
20 of --

21 A. Yes, yes.

22 Q. What was the reason that your -- sorry. Strike
23 that. Was it your testimony that election officials had
24 quit or decided not to volunteer for future elections
25 because of this?

1 A. Yes.

2 Q. And about how many election officials quit
3 because of this?

4 A. We probably lost about 50 out of our 1200 which
5 again, is not tremendous but it is still problematic.

6 Q. Okay. Did these election officials all resign
7 around the same time?

8 A. Yes.

9 Q. And when was that?

10 A. Yes, they were resigning probably like in
11 January once we start reaching out to them to get ready
12 for the next election. We start usually, you know, 60
13 days ahead. And they were like no. And like I said,
14 the staff was really good trying to tell them that that
15 onerous bill did not take -- you know, that was not in
16 SB-1 where they had to have a camera and they could take
17 pictures and they could, you know --

18 But still, they said, you know, we hope
19 they come back. But it was like we are going to sit
20 this one out. We don't need that.

21 Q. Did losing these 50 election workers in January
22 impact your offices --

23 A. Sure.

24 Q. -- functions?

25 A. Sure, sure, it causes a lot of stress.

1 Q. Causes a lot of stress?

2 A. To that staff, to our staff when they have
3 to -- you know, again, the goal is never to close a poll
4 site. I mean that is the golden rule. And if you don't
5 have the officials to man it, you have to close the poll
6 sites. And like Dallas had to close a whole lot of
7 theirs in 2022. But the staff knows, you know. It is
8 basically we have to fill this. We have to get someone
9 here. We have to have them trained. And it is a strain
10 on them.

11 Q. And your testimony just now, your understanding
12 was that Dallas had to close poll sites because they
13 lost election officials?

14 A. Yes, sir.

15 MS. HUNKER: Objection, form.

16 Q. (By Mr. White) And they lost election officials
17 because of the poll watchers?

18 A. I don't know why but they didn't have the
19 officials to open their poll sites.

20 MS. HUNKER: Objection, form.

21 Q. (By Mr. White) I am just curious about the
22 practical applications of losing 50 election workers
23 right before the primary. Did Bexar County have to
24 close any polling sites?

25 A. No, sir.

1 watchers were demanding to see that zero tape. They
2 wanted to observe, watch, touch and sign these zero
3 tapes. And the election officials, rightfully so, I
4 give them credit because we didn't even think to tell
5 them that. But that if somebody wants to look at this
6 zero tape, it is their responsibility to stand there and
7 make sure that they don't alter it in any way. And then
8 the poll watchers were told they could sign it.

9 Well, okay, that's -- except that is
10 taking another five or ten minutes out of the morning
11 that the election officials could have moved on to the
12 next stage of opening this. So that is where that
13 started right away. And then we had some poll watchers
14 who would stand behind the qualifying table and argue
15 with the election officials.

16 And what I mean by that, again, I don't
17 know if we talked about it before. I'm sorry. In a
18 primary, in a joint primary, again, like six years ago,
19 I think we did talk about this.

20 About six years ago, the legislature
21 passed a bill that said you cannot ask a voter when they
22 come to a joint primary if they are a Democrat or
23 Republican. You can't do that. You can't say that out
24 loud. They can't -- because somebody had complained
25 that, oh, my God, your officials asked me and I had to

1 say it and my neighbor was standing behind me.

2 So they came out with block letters. So
3 we have to put block letters, an R or a D, in front of
4 our qualifying -- in front of our laptops. And the
5 judge now for like six years now has said please point
6 to the ballot you would like, not point to what party
7 you are assigned with, just point to the ballot you
8 would like, an R or D.

9 So it works quite well. But in some
10 instances, the poll watcher is who is standing here is
11 now telling the judge well, you gave them the wrong
12 ballot. They pointed to this one and you are giving
13 them that one. When in fact, that didn't happen and it
14 just, you know, just ramps up the energy that is in
15 there.

16 Q. Okay. So let me go back to the first that you
17 were talking about with the zero tape, how that would
18 potentially delay election workers setting up --

19 A. A normal opening.

20 Q. -- a normal opening. How widespread of a
21 problem was that in the March primary?

22 A. Fairly widespread because that was one of the
23 first acts of the poll watchers duty at all of these.
24 That is how they were trained, that nothing proceeds
25 until you are sure that that is the zero tape and it has

1 every candidate on it.

2 Q. Did this happen at most polling places where
3 there were poll watchers?

4 A. Yes.

5 Q. And how did you hear about this?

6 A. The judges were calling us.

7 Q. They were calling you?

8 A. They were frustrated.

9 Q. And the five to ten minute delay that you had
10 mentioned that would result from this, how did that
11 impact the logistics of running the election after that
12 for the rest of the day?

13 A. Well, I am proud to say the election officials
14 did it. They opened up in time. But they were very
15 very frazzled if that is a word. And I think you
16 understand what I mean, that they didn't have their
17 normal hello, we got everything set up. Now I can have
18 a cup of coffee. It didn't go that way.

19 Q. And then the other instance of interactions
20 that you were just talking about are poll watchers
21 potentially arguing with election officials?

22 A. Yes.

23 Q. Was this happening while voters were attempting
24 to vote?

25 A. Yes.

1 Q. And did that result in any kind of delays in
2 wait times?

3 A. Fractions of seconds I mean it would have
4 backed up. But from my standpoint, the interaction was
5 more of an intimidation. Because now, you are getting
6 them to question the integrity of what the election
7 officials are doing and that's wrong.

8 Q. And so when you said fractions of seconds of a
9 delay, is that a guess?

10 A. Yeah.

11 Q. Okay. Did you ask election officials like how
12 the extent to which poll watchers were delaying
13 proceedings?

14 A. No. I mean at that point, we were like no,
15 just take a deep breath. Things will settle down. Just
16 you know, bear with us for a second. Let's just get
17 this underway. You know, we did a lot of that.

18 Q. Did your office receive complaints from voters
19 about poll watchers in the March primary?

20 A. I think like I talked to two of them. I talked
21 to one man where he was livid because the poll watcher
22 made him show his ballot to him before he put it in the
23 tabulator. What was I doing and why did we do this, why
24 did I instruct -- argh.

25 Q. You said you talked to two people?

1 A. That I talked to personally, yeah.

2 Q. Who was the other person that you spoke to?

3 A. Again, just another -- I am there and I take
4 the phone calls like everybody else does.

5 Q. Do you recall the substance of the other
6 person's complaint?

7 A. It was similar. They didn't touch the other
8 person's ballot but they stood behind them the whole
9 time and watched who they voted for. And they objected
10 to that. And then, of course, the objection then went
11 to the fact of suggestions on how to stop that kind of
12 interaction. And this one gentleman in particular, the
13 one school said well, why didn't we just reverse the
14 voting machines, the actual voting stations? So instead
15 of walking up and seeing the screens as you walk up and
16 have them, you know, why didn't we flip them so that you
17 had to walk behind the table so that somebody couldn't
18 get there? But again, two-fold, because you can't have
19 the tables all of the way out in the middle of the room
20 to allow somebody to be behind them. Secondly, there is
21 electricity that we have to take into consideration to
22 plug them into the wall. So you don't want people
23 crossing the -- could trip and fall.

24 And with the poll watchers, we would have
25 to allow room for not only the voter to be there, you

1 know, to pass by, but you would have to have another
2 space for another person to be back there.

3 So yes, it made sense to what this
4 gentleman was explaining to me. But in the reality, we
5 have other concerns that we had to address so we didn't
6 do it.

7 Q. Okay. Were there other ways in which poll
8 watchers -- in which the presence of poll watchers at
9 polling sites affected how these sites operated?

10 A. No. I mean those were the three biggies, just
11 roaming around interacting with the voters, trying to
12 see how the voters voted, being behind the qualifying
13 table, questioning what the election officials -- asking
14 to hold -- to literally hold someone's photo ID.

15 Q. Is your office taking any steps to address
16 these issues involving poll watchers for the November
17 general election?

18 A. Well, we are going to see how we get through
19 May 7th and May 24th. But it should, you know, taper
20 off if everybody will feel a little bit better. We will
21 see how that goes.

22 Q. So at the moment, you are not planning to
23 proactively address these issues from the --

24 A. No -- I mean no more than our normal. I mean
25 it is all -- the poll watcher is always part of our

1 normal education and instructions. But I, again, I ask
2 the staff to make sure they put the poll watcher manual
3 into each of the kits for this May 7th and 24th
4 election.

5 MR. WHITE: I understand. I think this is
6 probably a good time for a break. We have been going
7 about for 90 minutes. Does that sound good?

8 MS. PERALES: Yes. We are going to pass
9 out the order finds for lunch if Jimmy John's is okay.

10 MR. WHITE: We can go off the record.

11 VIDEOGRAPHER: The time is 12:00. We are
12 off the record.

13 (Recess taken)

14 VIDEOGRAPHER: The time is 12:29 p.m. and
15 we are back on the record.

16 Q. (By Mr. White) Ms. Callenan, I wanted to shift
17 gears and talk a little about provisions of SB-1
18 relating to extended vote hour voting.

19 A. Yes, sir.

20 Q. I know you testified a little bit about this
21 last time, how Bexar County had sort of different hours
22 and things like that. But I wanted to -- if you could
23 start by opening up you SB-1 exhibit to page 16. And
24 take a look at Section 3.09.

25 A. Yes, sir, I am there.

1 that there was potentially a problem with ballots
2 getting rejected?

3 A. Ballots or applications?

4 Q. I'm sorry. Applications being rejected.

5 A. Again, probably by the third week of January.

6 Q. And in between say late January and the March
7 primary, did your office take additional steps to
8 educate voters and the requirements?

9 A. Yes, we updated the web site. We put the
10 envelopes out there and just tried to get as much of the
11 word out to the media, that kind of stuff.

12 Q. When you say media, are you referring to media
13 appearances by yourself or --

14 A. Myself, yes.

15 Q. And what platforms would you typically use?

16 A. Just have news conferences.

17 Q. Did you seek any approval from -- sorry.

18 Strike that. Did you contact the secretary of state's
19 office before doing media appearances about --

20 A. No, sir.

21 Q. Since the March primary, do you have additional
22 plans to engage in proactive voter education about the
23 mail-in identification provisions?

24 A. Again, yes, sir. And I showed you the insert
25 that we have gone to for great planning.

1 Q. Right. So I would like to talk about that and
2 we will mark this as --

3 REPORTER: C.

4 Q. (By Mr. White) -- C.

5 MS. PERALES: No, we have a different
6 piece of paper. Here we go. Thank you.

7 THE WITNESS: I still have this many.

8 MS. PERALES: I think you should mark
9 this. We did this for you.

10 (Exhibit C marked)

11 Q. (By Mr. White) Okay. I would like to mark
12 something else as Exhibit C which this is in paper
13 format which I think might be easier for folks to --

14 A. You don't want to pick my strips up off the
15 ground?

16 Q. This might be easier for everyone.

17 A. Thanks, Nina.

18 MS. PERALES: I will be checking the
19 translation while you all discuss.

20 Q. (By Mr. White) Okay. So are you familiar with
21 this exhibit that I have just passed you?

22 A. Yes, sir.

23 Q. What is it?

24 A. It is our attempt at correcting a lot of the
25 errors that we saw in the March 1st mail ballot

1 application and mail ballot return. So we inserted
2 these in every one of the mail ballots that we have sent
3 out for the May 7th election. And again, we are going
4 to change it just a little bit to take the color teal
5 off of it so that is generic for the 24th. And then we
6 will revisit this over the summer to see if we can tweak
7 it in some way or, you know, is our learning curve
8 smoothing out now and are we passed all of this? So we
9 will definitely revisit it in the summer.

10 Q. When did you decide to put something like this
11 together?

12 A. Probably, probably two weeks before the March
13 1st ones. Once we were seeing these rejection things, I
14 mean we, myself and the mail room people were basically
15 just -- we have to do something. What with we going to
16 do? How are we going to do this? What are we going to
17 do? And that seemed to have been a theme across the
18 state because -- and we got a message after March 1st.
19 We all received a message from the secretary of state's
20 office saying if you are thinking of doing anything, we
21 have to approve it before. So that led us to believe
22 that more, you know, wasn't just a Bexar County thing.
23 It was more widespread. And so a lot of us did these.
24 I was in touch with Christina Adkins and
25 she sent me the one the state had come up with after

1 much thought. And we killed that one and said no, that
2 was just way too wordy. It was way too legalese. It
3 wasn't in like common -- what we need. And so we got
4 permission to use ours.

5 So I don't know how many different ones of
6 these are around the state. But again, they recognize
7 that I guess a lot of us were saying we have to do
8 something. We have to do something.

9 Q. Let me go back and ask you first about the
10 message from the secretary of state's office that you
11 referenced on March 1st. Was this sort of -- was this
12 an advisory from the secretary of state's office sent to
13 you?

14 A. Not an advisory. Just an email. We get them
15 from -- they will just do blasts I guess is the term.
16 And it was saying if you are thinking of doing anything
17 and you want to put an insert in, make sure we approve
18 it.

19 Q. Okay. Was this email sent out to all county
20 election administrators?

21 A. I am sure everyone, yes.

22 Q. Is this email something you have produced in
23 discovery at this point?

24 A. No, I didn't even think to, no. I'm sorry.

25 Q. And what was -- can you be more specific about

1 the contents of the email, what it was instructing you
2 to do?

3 A. Again, it was just a -- I took it just as it
4 was a reminder to us as everything. That if, you know,
5 I mean we know we have to contact the state if we want
6 to put a sign up in the poll site, it has to be approved
7 by them. There is so much structure that, you know,
8 they don't want to have everything be crazy different
9 all over the place. And so this was just one more
10 thing.

11 Q. And you said that you were in touch with
12 Christina Adkins.

13 A. Yes.

14 Q. Was she the one who sent you this email or you
15 were in touch with her afterwards?

16 A. Afterwards, afterwards. I sent up ours and
17 said -- first, she sent theirs down. And I opened it
18 and said oh, my God, no, it looked exactly like the
19 instructions that were on the mail envelope now which
20 was so confusing. So it was like no. And then we, you
21 know, we sat down. And of course, this went through
22 many iterations, you know. When you say -- if you put
23 somebody in a group, you are going to get this many. So
24 I had my staff members, I had the mail room people and
25 we did it and we send it up. And she was like okay, you

1 can use that one. We were like fine.

2 Q. And so when you are referring to the one that
3 the state had come up with, are you -- was your
4 testimony that the state had also produced this sort of
5 insert to put on local ballots?

6 A. Yes, but it was much more cumbersome. It was
7 in that tiny font. Like I said, it was almost a
8 duplicate of what is on the carrier envelope on the way
9 back.

10 Q. Did the state send their insert after this
11 March 1st email?

12 A. Yeah, that is when we were doing the work. You
13 know, everybody survived March 1st. After that, we all
14 started. We got to get better. We have got to get
15 better.

16 Q. Do you know if other counties used the insert
17 that the state provided?

18 A. I don't know.

19 Q. Do you recall when you requested approval to
20 use Exhibit C?

21 A. No, I'm sorry. I apologize. I didn't that was
22 going to be important.

23 Q. And the insert that you came up with, this is
24 something that you are placing in the ballots?

25 A. Yes, every single ballot.

1 Q. After the ballot has already been requested?

2 A. Yes, sir.

3 Q. Are you -- is your office taking any steps to
4 address potential confusion before voters request mail
5 ballots?

6 A. I'm sorry. I don't understand.

7 Q. Let me rephrase. So is it fair to say that the
8 ID numbers that a person will put on the application
9 need to match the number on the ballot itself?

10 MS. HUNKER: Objection, form.

11 THE WITNESS: No. They -- I'm sorry,
12 Graham.

13 Q. (By Mr. White) That's okay.

14 A. This is where the confusion comes from.
15 Someone can send us in the ABBM, the application, and
16 they can put the last four of their social on it, okay,
17 and we will process it. And we will send them a ballot
18 if it matches what we have on their record. If they now
19 send in their voted ballot and they put in their TDL,
20 Texas driver's license number, and we have that on
21 record, we will accept that ballot. It doesn't have to
22 be the same. It has to match what we have in our
23 records.

24 And as the state has said, it is either
25 the TDL or your last four of the SSN. And that is why

1 Q. But you have the number --

2 A. Of ballots.

3 Q. -- of ballots that were ultimately accepted?

4 A. Yes, that were cured, that came in to be cured
5 in that sixth day, you know, that sixth day after.

6 Q. And can you -- I'm sorry. Can you repeat again
7 what the number is?

8 A. 837.

9 Q. Did you have that number?

10 A. You all have these copies from the last time we
11 made and that hasn't changed. This is what we had the
12 last time.

13 Q. And do you have that number for the March 2020
14 primary election?

15 A. No, I do not. Because they didn't have that
16 ability.

17 Q. And sorry to ask the question again but I need
18 it for the record.

19 A. No, we didn't have that data.

20 Q. What about the March 2018 primary?

21 A. Likewise, yeah.

22 Q. Can you tell me the number of applications for
23 ballot by mail that Bexar County flagged for rejection
24 because an applicant failed to provide an identification
25 number as required by SB-1?

1 A. No. Again, that is the same witness. We
2 didn't -- I don't want to say we didn't know it would be
3 important but it didn't rise to that level because we
4 have been doing it for so long.

5 Q. Just going through these -- so I don't have to
6 belabor the point. Give me one second. So do you know
7 the number of applications for ballot by mail that were
8 ultimately rejected because of a mismatch?

9 A. No, sir.

10 Q. You know the number of carrier envelopes that
11 Bexar County received in the March 2022 primary?

12 A. Yes, that was on these papers, the ones that
13 were received and turned over to the early ballot board.

14 Q. What was that? Can you tell me what the number
15 is?

16 A. I didn't add them together. We had 5,477
17 Republicans and 12,621 Democrats.

18 Q. And do you have that data for the March 2020
19 primary election?

20 A. I didn't break it down by R&D. I'm sorry. We
21 received a total in 2020 of 18,686 returned.

22 Q. In the March 2020 primary?

23 A. Yes, sir.

24 Q. And what about the March 2018 primary?

25 A. We received back 17,236.

1 Q. Can you tell me the number of carrier envelopes
2 that Bexar County flagged for rejection because of a
3 defect in the March 2022 primary?

4 A. It would be the 2,823 for the Democrats and
5 1,117 for the Republicans.

6 Q. Okay. Do you have those numbers for the
7 March 2020 primary?

8 A. No, sir.

9 Q. Okay. And what about the March 2018 primary?

10 A. No, sir.

11 Q. Okay. Do you have the number of mail ballots
12 that Bexar County ultimately accepted and counted after
13 a voter cured carrier envelope defects?

14 A. That was the 837.

15 Q. I see. Okay. And do you know the number of
16 ballots ultimately rejected for mismatch or omission
17 defect?

18 A. It would have been the 2,823 and the 1,117.

19 MR. WHITE: Okay. I think we can take a
20 break. I may have some follow-up questions after lunch.
21 But if folks are ready, we can take a break now.

22 THE WITNESS: Okay, cool. Thank you.

23 VIDEOGRAPHER: The time is 1:07 p.m. We
24 are off the record.

25 (Recess taken)

1 VIDEOGRAPHER: The time is 1:46 p.m. and
2 we are back on the record.

3 Q. (By Mr. White) Ms. Callenan, I just had a
4 couple more questions relating to mail ballot
5 applications and that experience during the 2022
6 primary. You testified during your first deposition in
7 this case that there were some voters who didn't put any
8 ID number at all on their application form; is that
9 right?

10 A. Correct, yes, sir.

11 Q. How often did that happen? Do you have a
12 sense?

13 A. Probably about a third of the rejected ones
14 that we had.

15 Q. And one of the reasons you potentially --
16 strike that. One of the reasons you gave for this
17 potentially being a problem, voters were concerned about
18 identity theft; is that right?

19 A. Correct, correct.

20 Q. How were you made aware that was potentially a
21 concern for voters?

22 A. Their calls, their calls.

23 Q. These were calls leading up to the March
24 primary?

25 A. Yes.

1 Q. Do you know about how many calls you received
2 with this?

3 A. No. Again, we just know, you know, the staff
4 member will have gotten one. So then we all huddle and
5 say okay, this is what we are going to do. And you
6 know, at that point, we recommended and we told the
7 voters it was okay put it in another envelope.

8 Q. So is it -- I'm sorry.

9 A. That was one of our recommendations. We
10 understand -- I understand what they were talking about.
11 And so it was like to make you feel more comfortable, it
12 is okay. You can put it in another envelope.

13 Q. So is it fair to say that your office received
14 enough calls about that that it got brought to your
15 attention?

16 A. Correct.

17 Q. Were voters concerned that somebody in your
18 office would misuse the voter ID number?

19 A. No, that is not how I heard it. That is not
20 how I heard it. They were mainly concerned that they --
21 the ones who -- this was a concern for noticed that on
22 the envelope, the flap was perforated. And their
23 concern was that during the course of the mail and going
24 through everything, that the perforated lines would
25 easily pull off.

1 Q. I see. Are you aware of any instances of
2 identify theft that arose from the use of these mail
3 ballots?

4 A. No, sir.

5 Q. You were also asked last time if the reason
6 that some people didn't put down a number was because
7 they were trying to commit voter fraud and didn't know
8 what number to put. Do you recall that, being asked
9 about that?

10 A. Yes.

11 Q. Are you aware of any instances in the March
12 primary where somebody tried to fraudulently -- tried to
13 fraudulently request a mail ballot but wasn't able to
14 put down a number because they didn't know what number
15 to put?

16 MS. HUNKER: Objection, form.

17 THE WITNESS: Not specifically, no.

18 Q. (By Mr. White) You also testified that your
19 office had to stay open I believe after the March
20 primary date to help cure issues with mail-in ballots?

21 A. Yes.

22 Q. How many times did your office have to stay
23 open late to do that?

24 A. Well, again, we were -- the directive from the
25 secretary of state is they have six days. And we chose,

1 Graham, we chose to be open on that weekend. We were
2 not required to be open but we -- I felt the need for
3 it. So we had hours published, put out through the
4 media and all of that. And we were there on Saturday.
5 We did not open on Sunday but we were there on Saturday
6 and people came in.

7 Q. Did you have to hire extra staff to help with
8 the cure issues?

9 A. No, I had to pay them more. It was the regular
10 staff that got overtime.

11 Q. Were there any other instances where staff had
12 to work overtime during the March primary because of
13 issues relating to SB-1?

14 A. Constantly.

15 Q. So what are some examples where that happened?

16 A. Well, again, we have a mail room staff that is
17 robust. We have like eight or ten people back there at
18 all times. And oh, you should see their payrolls. They
19 are a temp staff. I have one permanent staff member
20 that works with them. And they were -- they were there
21 75-80 hours a week because they were just phenomenal.
22 They were just phenomenal. But every time as we are
23 talking around whether it was an application that was
24 rejected or if it was a ballot that was rejected, that
25 caused another letter, that caused another phone call,

1 that we had come in for the March election, now that we
2 are in to the May 7th election, I think -- I don't know
3 but I think that the consultants have been scared off,
4 for lack of a better word, because we are now into the
5 May 7th election.

6 And this election has huge bond issues on
7 them. I know you are not from here but, you know, the
8 city is having an almost billion dollar bond and the
9 school districts are having -- there are seven bonds on
10 here.

11 And when I left the office today, we have
12 a total applications of 26,825. We have only gone up
13 3,000 in this time. When normally, if we were coming up
14 to a huge election, every consultant in town would have
15 been putting applications in the mail and we would have
16 been getting three and four and seven for the same
17 person because all of the consultants, they are all
18 drawing from that same pool. And we are not seeing
19 that.

20 So I think -- I really do, I think this
21 has given pause, for lack of a better term, given pause
22 to the consultants to not do this.

23 Q. The number that you just mentioned --

24 A. 26,825.

25 Q. -- that is the number of mail applications you

1 have received so far for the May election or am I
2 missing?

3 A. Well, again, in Texas, that ABBM stands for
4 annual. So these 23,339 roll over automatically. We
5 push a button and they are already there. And so we
6 have added just 3,000 plus some to that which again is
7 very low for a major election.

8 Q. And do you think that voters in the May
9 election who had voted in the March primary are less
10 likely to be confused by the mail identification
11 provisions having gone through the process already?

12 A. We are hoping. But if like you see today's
13 paper, we are headlines in the paper that there is going
14 to be voter confusion because we are sending -- each of
15 the voters are getting two major elections within a two
16 week period. So I can't say there is no confusion
17 because this is an added element to that.

18 Q. So on the flip side of my last question, do you
19 think voters who did not yet vote in the March primary
20 and haven't voted under an SB-1 election, do you think
21 there is a potential for those voters to be confused?

22 A. Absolutely, absolutely, which is why we made
23 the insert.

24 Q. Do you think in the November election, there
25 will be a large number of voters who did not vote in the

1 March primary?

2 A. There always is.

3 Q. How much -- so the turn out in a general
4 election is typically higher than the primary; right?

5 A. Much so, yes. Again, we had a 15 percent
6 turnout for the primary which is average. And when we
7 get to November, I mean Texas isn't great but we should
8 be about 40 to 550 percent turnout. That is about
9 average for us.

10 Q. So significantly higher than primary?

11 A. Yes.

12 Q. So voters who -- strike that. First time
13 voters who have never voted under SB-1's provisions, is
14 it fair to say there will always be a potential for
15 confusion for those people?

16 A. Yes, absolutely.

17 MS. HUNKER: Objection, form.

18 Q. (By Mr. White) So a moment ago when we were
19 talking about the potential decline in the fewer number
20 of applications for the May election, you had mentioned
21 that that could be attributable to consultant activity?

22 A. Yes.

23 Q. What did you mean by consultant activity?

24 A. Again, in the election world as we talked
25 about, you know, by name or whatever, campaigns hire

1 A. Yes, ma'am.

2 Q. Those were mail ballots?

3 A. Yes, ma'am, that were returned to us and that
4 the ballot board rejected, yes, ma'am.

5 Q. And that number is 3,940. And then you have
6 837 that were cured.

7 A. That came in to cure out of that 39. So that
8 is 20 percent -- 20 some percent.

9 Q. So I am getting 3,103.

10 A. That did not --

11 Q. That did not cure.

12 A. Okay. 3,103?

13 Q. Yeah, 3,103. So that is 1,117 plus 2,823 minus
14 837 gets us 3,103.

15 A. Yes, ma'am.

16 Q. So how would we describe that 3,103? 3,103 are
17 the number of voters in Bexar County who sent you a mail
18 ballot. You could not match the ID number and they
19 didn't cure in time so their vote was not counted.

20 A. Correct.

21 Q. Okay. Now, do you have a sense of how many
22 people sent you an application for a mail ballot and you
23 couldn't match their number and you never got a cured
24 application for mail ballot from them?

25 A. No, that we didn't track. Like I said, we

1 didn't have that system in place.

2 Q. Do you know how many times you mailed out to a
3 voter a new application for ballot by mail because you
4 weren't able to verify the first time?

5 A. Again, we didn't track that. We didn't know it
6 would be --

7 Q. So would you agree with me there is some number
8 of people who sent an application for ballot by mail and
9 you couldn't match their number and they were unable to
10 cure and so they never received a mail ballot?

11 MS. HUNKER: Objection, form.

12 THE WITNESS: Correct, although we did
13 send rejects to them and new applications up to the
14 point where the gate came down and it was closed. So
15 again, I just don't know what that push/pull was.

16 Q. (By Ms. Perales) It is also possible, isn't it,
17 and this would be a terrible situation. But if the
18 voter sent you the first application for ballot by mail
19 and put the driver's license and you couldn't match the
20 driver's license, so you sent them a new application for
21 ballot by mail and they put the social down, and then
22 you couldn't match the social either, that could happen;
23 couldn't it?

24 A. Oh, sure.

25 Q. And do you know if it happened for anybody in

1 particular?

2 A. I don't.

3 Q. Is that because you weren't tracking those
4 individual voters?

5 A. Correct. Again, because the system we have had
6 no coding for it in there. Previously, it had never
7 been an issue. It was handled manually. If something
8 came in and we had to reject it, we sent something out
9 and we literally kept it in a box. I mean we kept it
10 filed. We knew where it was. But the computer system,
11 the database didn't even have the codes in there.

12 Q. Do you recall your office receiving any phone
13 calls from voters who said I received a second
14 application for ballot by mail from you and I filled
15 that one out too and I still got rejected?

16 A. Yes.

17 Q. Do you know how many voters were twice
18 rejected?

19 A. No, no, that would have been anecdotally. But
20 yes, we would hear it.

21 Q. And I will represent to you that El Paso County
22 got some pretty angry phone calls from voters.

23 A. So did we. So did we. And again, as I spoke
24 before, we had to have a meeting with the staff to allow
25 them to say they don't deserve to be spoken to like

1 that. So and again, in all of the years I have been
2 here, I have never had to have a meeting like that, to
3 even say something like that because we are a customer
4 service driven organization and that is part of who we
5 are. And we had to do that for the first time and that
6 was sad.

7 Q. Did you have any voters call with confusion
8 about the verifying of the numbers on the mail ballot
9 applications or mail ballots who were Spanish speaking
10 voters?

11 A. Oh, sure.

12 Q. Did you have a Spanish speaking staff person
13 who would talk to them on the phone?

14 A. Yes, ma'am. Yes, ma'am.

15 Q. You mentioned that at some point, you started
16 sending voter registration forms to voters who had --
17 who were obviously already registered --

18 A. Correct.

19 Q. -- but for whom you couldn't get some kind of
20 number on them?

21 A. Correct.

22 Q. Did you receive any phone calls from voters who
23 were confused about why you were sending them a voter
24 registration form?

25 A. Yes, ma'am.

1 Q. And they were already --

2 A. They were already registered.

3 Q. Do you recall whether the voter registration
4 form that you sent out was in both English and Spanish
5 or just English?

6 A. I bet it was just English. We had Spanish. If
7 they request, we have Spanish ones. But now that you
8 are saying that, I bet the staff was just picking and
9 stuffing and picking and stuffing as they -- that is a
10 great point.

11 Q. So it is likely that when you were sending out
12 these new voter registration forms to voters, you were
13 sending the English form?

14 A. Yes.

15 Q. Did you get a sense from all of this of what
16 characteristics of the voter was most likely to cure
17 when you notified them that you couldn't match their ID
18 number?

19 MS. HUNKER: Objection, form.

20 Q. (By Ms. Perales) Anything about education level
21 or anything that you were picking up from your
22 conversations with voters on the phone that would help
23 you understand kind of the differences between the group
24 that did manage to cure and the group that just never
25 got their ballot counted?

1 MS. HUNKER: Objection, form.

2 THE WITNESS: No, I didn't have a sense of
3 that.

4 Q. (By Ms. Perales) We talked to one lady who had
5 a PhD. And she was all fired up and she cured.

6 A. Was she related to Tommy Calvert because he is
7 the one that tells me all of the time --

8 Q. No, it was a different county.

9 A. I have got to stop. Sorry. Bite my tongue. I
10 am going to get myself in so much trouble, I can't stand
11 it. Lisa, you are supposed to keep me --

12 MS. CUBRIEL: She didn't say that.

13 MS. PERALES: I think you are supposed to
14 kick her under the table when she mentions a county
15 commissioner.

16 THE WITNESS: That is your job to keep me
17 out of trouble.

18 MS. CUBRIEL: Are you doing okay? Do you
19 need a break?

20 MS. PERALES: Whenever you need a break,
21 you call break.

22 Q. (By Ms. Perales) So here is a question I have.
23 There is still a signature verification requirement for
24 application for a ballot by mail and mail ballot;
25 correct?

1 A. No.

2 Q. Because once an ID number matches, that is
3 presumptively then considered a match on the signature
4 side?

5 A. That is a word I didn't understand, the one you
6 all use, legalese --

7 Q. Presumption?

8 A. Yeah, that.

9 Q. You had mentioned before that when somebody --
10 pre-SB-1, that you were looking to match the signature
11 on the mail ballot to the signature on the application
12 for ballot by mail.

13 A. Yes, ma'am.

14 Q. But what were you matching the signature on the
15 application for ballot by mail to when you first
16 received that?

17 A. Nothing.

18 Q. You wouldn't match that against anything?

19 A. No, ma'am.

20 Q. When I am quiet, I am skipping questions.

21 A. That is a good thing.

22 MS. CUBRIEL: Can we go off the record
23 real quick?

24 MS. PERALES: Can we go off the record?

25 VIDEOGRAPHER: The time is 3:49 p.m. We

1 are off the record.

2 (Recess taken)

3 VIDEOGRAPHER: The time is 3:57 p.m. We
4 are back on the record.

5 Q. (By Ms. Perales) Ms. Callenan, can you describe
6 a specific instance in which someone contacted your
7 office asking for an application for ballot by mail on
8 behalf of another individual and you could not send that
9 application for ballot by mail?

10 A. Many times.

11 Q. Okay. And give me an example of the
12 relationship between the two people.

13 A. Well, again, as I mentioned the last time, I
14 mean the one that really hurt was when the mother
15 reached out and she asked for the two applications. And
16 I had her on the call and I was explaining to her that
17 we could only send the one to her and she wanted one for
18 her son.

19 And you know, first, we go through well,
20 but I always call and you always send me two. And then
21 so we had to stop and say yes, but SB-1, now we can
22 only -- so I said just take a minute and put your son on
23 the phone. If I can hear his voice, I will be glad to
24 send you one for him too. And that is when she said
25 that he was paralyzed and that he did not speak. And

1 boy, that one hurt.

2 Q. How did you end up resolving that situation?

3 A. Again, the exact same statement that I made

4 before was I tried to think of a solution right there at

5 that time and said well, you know, you can go on our web

6 site and you can download an application and fill it out

7 and mail it back in. And then, again, I caught myself.

8 Because at that point, I was being very insensitive to

9 the fact that not everyone has a computer and not

10 everyone has a printer. And like you had asked in the

11 beginning here just on the demographics of what we have

12 here in Bexar County. So some things like that don't

13 ever leave you. There are some of those things make it

14 very wrong.

15 Q. Okay. You mentioned earlier today about the
16 role of campaign consultants and applications for ballot
17 by mail.

18 A. Yes, ma'am.

19 Q. I want to make sure I understand. You have to
20 receive the application for ballot by mail from the
21 voter; is that correct?

22 A. Correct.

23 Q. And you mentioned that you were receiving
24 multiple applications for ballot by mail from the same
25 voter; is that right?

1 A. Correct.

2 Q. And so was that a situation where that one
3 voter was himself or herself sending you multiple
4 applications for ballot by mail?

5 A. Yes.

6 Q. And you are concluding for that, that the voter
7 must have been invited by more than one-third party to
8 send in an application for ballot by mail?

9 A. Correct.

10 Q. Ultimately, it is the decision of the voter for
11 how many applications for ballot by mail to send you; is
12 that right?

13 A. Correct.

14 Q. Now, you mentioned that for this upcoming May
15 7th election, you mentioned you had received a certain
16 number of applications for ballot by mail. And it
17 sounded from listening that you thought the number was
18 low. Can you explain to me what would be a typical
19 number?

20 A. Again, we start with our base number which is
21 the first election of the year. And in this instance,
22 we had 23,000. And the next election, and again, as I
23 am confused by this May 7th election is a major election
24 with the seven bonds. It may not be high visibility
25 with candidates but it is with the bonds. And

1 be reluctant to share details about a need for
2 assistance such as the type of disability?

3 MS. HUNKER: Objection, form.

4 THE WITNESS: Sure.

5 Q. (By Ms. Perales) Do you think -- would you
6 agree with me that some possible assistors might feel
7 reluctant to want to probe the voter for a statement of
8 eligibility?

9 MS. HUNKER: Objection, form.

10 THE WITNESS: I would hope not. But
11 again, we are not involved in that piece.

12 Q. (By Ms. Perales) A moment ago, we talked about
13 assistors helping voters understand how to use the
14 voting machine. How would you advise someone who called
15 your office and said that they want to serve as an
16 assistor but the oath says they have to confine their
17 assistants to either reading the ballot or marking the
18 ballot?

19 MS. HUNKER: Objection, form.

20 THE WITNESS: Not on how to use the
21 equipment. Is that what you are asking?

22 Q. (By Ms. Perales) Yes.

23 A. Again, we would direct them to our web site
24 where we have videos on how to use the equipment and
25 basic, you know, voter ID, the information there that

1 they would need.

2 Q. Is that information available, for example, in
3 Asian languages?

4 A. Again, English and Spanish only.

5 Q. How would you advise someone who called your
6 office and said they wanted to provide voter assistance
7 but they are not sure what it means to pressure a voter?
8 Let's say an assistor calls you and says well, I have
9 reminded my neighbor to vote three times. Am I
10 pressuring her if I take her to the polls and help her
11 get around inside of the polling place?

12 MS. HUNKER: Objection, form.

13 Q. (By Ms. Perales) How would you advise that
14 potential assistor?

15 MS. HUNKER: Same objection.

16 THE WITNESS: Again, we wouldn't enter
17 into that.

18 Q. (By Ms. Perales) Would you sign an oath under
19 penalty of perjury if you weren't sure you were
20 complying with the oath?

21 MS. HUNKER: Objection, form.

22 Q. (By Ms. Perales) Personally?

23 A. Personally, no.

24 Q. Have you received any guidance or training from
25 the secretary of state about the requirement that an

1 assistor secure a statement of eligibility to receive
2 assistance?

3 A. No.

4 Q. Have you received any guidance from the
5 secretary of state about how assistors must now limit
6 their assistance to activities involving reading and
7 marking the ballot?

8 A. No.

9 Q. Have you received any guidance from the
10 secretary of state about who, which voters are eligible
11 or ineligible for assistance?

12 A. No.

13 Q. Would you agree with me that the oath of
14 assistance that the assistor has to sign does not
15 include what is the eligibility for someone to receive
16 assistance?

17 A. Correct.

18 Q. Have you received any guidance from the
19 secretary of state about what it means to pressure a
20 voter to choose someone as an assistor?

21 A. No.

22 Q. Do you think if I tell my aunt, hey, you really
23 have to vote three days in a row during early voting and
24 then I offer to take her to the polls and help her vote
25 because she doesn't walk very well, do you think I am

1 pressuring her?

2 MS. HUNKER: Objection, form.

3 THE WITNESS: That is between you and your
4 aunt.

5 Q. (By Ms. Perales) Me and my aunt and SB-1 and my
6 oath under penalty of perjury; right?

7 A. Yes, ma'am.

8 Q. Would it be fair to say in that you in your
9 position are not aware of the types of conversations
10 that voters are having with their potential assistors?

11 A. Oh, sure, correct.

12 Q. And that could even be before they even get to
13 the polling place; right?

14 A. Absolutely.

15 Q. You would agree with me that even though poll
16 workers, God bless them, are available to assist, that
17 some voters would prefer to use their own chosen
18 assistor; is that right?

19 A. Sure.

20 Q. And would you say or do you have a sense of
21 what proportion of voters bring their own assistor
22 versus using a poll worker?

23 A. No, I would not.

24 Q. You would agree with me that now there is a new
25 form required for voter assistors to fill out their

1 Q. (By Ms. Sisco) Of course, makes sense. And
2 during the March 2018 primary, do you know how many days
3 the early voting period was?

4 A. I'm sorry. I can go back and look it up.
5 Historically, a primary is two full weeks. It starts on
6 a Monday and it ends the following Friday.

7 Q. Okay.

8 A. So that is historically. Now, one of these
9 primaries, we didn't start until Tuesday because it was
10 a state holiday on Monday. That may have been it, in
11 that year.

12 Q. Got it. And who sets the number of days?

13 A. It is in the election code. It is in -- the
14 legislature has it set.

15 Q. Okay. And could you offer more early voting
16 days if you wanted to or you are bound by it?

17 A. No, we are bound by what it is.

18 Q. Okay. And do you know how many early -- how
19 many days the early voting period was in the 2020
20 general election?

21 A. In the 2020 general election, we had two extra
22 days of early voting. The governor did a proclamation
23 and so we started on the Saturday before. So we had two
24 weekends. Again, because of COVID and the distancing
25 and all of that, it was extended by two days.

1 Q. Okay. And was that the same thing, you were
2 bound by what, the governor's proclamation?

3 A. Yes, exactly, yes, ma'am.

4 Q. And during the March 2022 primary, how many
5 days was early voting?

6 A. We were back to normal. We were back to
7 normal.

8 Q. Okay. And you, again, didn't have the
9 authority to extend them?

10 A. Correct.

11 Q. Got it. During the November 22 election, how
12 many early voting days will there be? Do you know yet?

13 A. It should -- that is the word that is banned in
14 our office. It should be the normal, from a Monday
15 through the following Friday.

16 Q. Got it. And on the year that it fell on --
17 that there was like a holiday on it, do you extend it an
18 extra day?

19 A. No, ma'am.

20 Q. Okay. Let's turn to vote by mail.

21 A. Okay.

22 Q. Do you consider offering mail -- vote by mail
23 to be important?

24 A. Absolutely.

25 Q. Why?

1 A. Because it serves a certain population that
2 doesn't have the ability or, as we say a lot of times,
3 it is sort of your right of passage, that when you hit
4 65, you have the ability to vote at home. And our
5 voters, our core group that we have talked about, they
6 appreciate that fact because it gives them -- I don't
7 want to say additional time but it is additional time to
8 do their research on some of the candidates so they
9 don't have to be locked in to a five minute standing in
10 front of a booth. They can take days. They can do
11 reserve some. So the ones who -- our core group, that
12 is their preference.

13 Q. And so you consider the 65 and older group to
14 be one of these very core groups who vote by mail is
15 designed to benefit?

16 A. Yes, ma'am.

17 Q. And would you agree that that core group is --
18 the group is a group that is likely to not have one of
19 these identification numbers on file with the state?

20 A. Well, again, that is what we discovered in this
21 first election. I mean, you know, it is going to
22 gradually get better. But yes.

23 Q. Okay. And when voters utilize vote by mail,
24 does that reduce wait times on election day?

25 A. Yes.

1 MS. HUNKER: Objection, form.

2 Q. (By Ms. Sisco) Does that make it easier for
3 your office to do its job?

4 A. Yes.

5 MS. HUNKER: Objection, form.

6 Q. (By Ms. Sisco) What is the deadline to apply
7 for a mail-in ballot?

8 A. 11 days before any election, election date. So
9 you back up. You take your election date and you back
10 it up 11 days. And again, we have appreciated that
11 fact. It used to be much shorter. But for the people
12 who are sending out the ballots, we have a much higher
13 success rate because the voters have time -- we have
14 time to get it to the voters and they have time to mail
15 it back. So it is 11 days.

16 Q. Great. Okay. And we talked a little bit about
17 this kind of core group of mail-in voters who are over
18 65. And you said that some of them may not have a
19 driver's license number on file?

20 A. Correct.

21 Q. And so if someone -- bear with me on these
22 questions. They are going to be a little bit redundant
23 on a few of them. So if someone put that is eligible to
24 vote by mail put only their driver's license on the mail
25 ballot but you only have their social security number on

1 file, that would be rejected; right?

2 A. Correct.

3 Q. And so if that person follows the law
4 correctly, puts down the correct number that they have
5 been asked for under SB-1, they would still have it
6 rejected if the their other number is on file?

7 A. Correct.

8 Q. And in the November 2022 election, that will
9 still be the case; right?

10 A. Correct.

11 Q. And what about someone who is 80 years old and
12 hasn't driven in 20 years and they lost their driver's
13 license? If the number you have in the system is their
14 driver's license and they put the last four of their
15 social, that would be rejected; right?

16 A. Correct.

17 MS. HUNKER: Objection, form.

18 Q. (By Ms. Sisco) And you said that some voters
19 don't have either a social or a driver's license number
20 on file; right?

21 A. Correct.

22 Q. So if one of those voters, if they correctly
23 put their driver's license number on, what happens? If
24 they correctly put -- I will rephrase.

25 If one of those voters who don't have

1 either number on file, if they put their correct
2 driver's license number on the ballot, is it rejected?

3 A. Yes.

4 Q. And if they put their social, the last four of
5 that social on the ballot, is it rejected?

6 A. If we don't have the number, yes.

7 Q. And what if they put both of those numbers on,
8 is it still rejected?

9 A. If we don't have either one of those numbers,
10 yes, ma'am.

11 Q. And do you have any sense of how many voters
12 don't have any ID number on file?

13 MS. HUNKER: Objection, form.

14 THE WITNESS: We think from some of the
15 data that we have we are going to come about 12 percent
16 of our registered voters over 65 do not have either
17 number. But again, we are waiting until sort of the
18 dust settles on this so we can get a very accurate
19 number.

20 Q. (By Ms. Sisco) So you think about 12 percent
21 but you have incomplete information at this point?

22 A. Correct.

23 Q. Understood. And in your experience, how do
24 voters know which of their ID numbers they have on file?

25 A. I am sure they don't remember.

1 Q. So would you say that someone who can't
2 remember or doesn't have access to both their driver's
3 license number and their social security number is at a
4 greater risk of having their mail application rejected?

5 A. Yes.

6 Q. And this law doesn't require an individual to
7 write both numbers down; right?

8 A. Correct.

9 Q. And not everyone knows both of those numbers;
10 right, for their self for themselves?

11 MS. HUNKER: Objection, form.

12 THE WITNESS: I would hope so. If they
13 have them, I would hope they would know them and be able
14 to provide them. But I don't --

15 Q. (By Ms. Sisco) Sorry. I didn't mean to cut you
16 off.

17 A. No.

18 Q. So if I lost my license, might I not know my
19 driver's license number?

20 MS. HUNKER: Objection, form.

21 THE WITNESS: Again, I don't know.

22 Q. (By Ms. Sisco) Okay. Did you speak to any
23 voters that didn't know either of their numbers?

24 A. I did not personally, no.

25 Q. Are you aware of any of your staff speaking to

1 any voters that didn't know either number?

2 A. No.

3 Q. How does a voter know if their vote by mail
4 application has been accepted?

5 A. They receive a ballot.

6 Q. Okay. And what is the deadline to cure a
7 deficient vote by mail application?

8 A. That is a gray area. That's a gray area.
9 If -- and it is used a lot. Okay. If we get to that
10 11th day and we don't have their physical application in
11 our hand, in our office, there is sort of this gray area
12 that they can fax their application or where they can
13 scan it and email it in. And that becomes a place
14 holder.

15 Then they have four business days to get
16 us the original ballot. It must be delivered. We still
17 have to have that wet signature. So again, that is why
18 I just said a few minutes ago how we were grateful that
19 the 11 days, that they moved it back 11 days. So now if
20 they send it in the deadline, we need it by four days.
21 That still gives us a week to get them the ballot, to
22 get it back.

23 And so again, that is the same thing. If
24 the voter -- if we have sent them a reject, the time
25 clock starts when we get it in the first time. Whether

1 THE WITNESS: Maybe not. Let's stay to
2 five percent.

3 Q. (By Ms. Sisco) Okay. All right. And I am
4 going to enter another. So I am going to enter this as
5 Exhibit --

6 REPORTER: G.

7 (Exhibit G marked)

8 Q. (By Ms. Sisco) -- G, thank you. Mr. Callenan,
9 can you tell me what this is? Actually, it is kind of
10 hard to see. Forgive the printing here. Can you tell
11 what this is? And if not --

12 A. I think it is a news article.

13 Q. Yes. So that's right. This is a KSAT.com
14 article entitled more than 1900 Bexar County mail
15 Ballots rejected following new voting law requirement.

16 A. Right.

17 Q. And this is from March 8th so these numbers are
18 not final.

19 A. Correct.

20 Q. So I am going to direct your attention to the
21 back of this front page here. The second to last
22 paragraph starts on election night.

23 A. Uh-huh.

24 Q. Can you read that -- those two sentences for
25 me?

1 A. Where it says on election night?

2 Q. Yes.

3 A. Callenan told reporters that the county was
4 running about a 35 percent rejection rate for mail
5 ballots before SB-1 went into effect. She says a
6 typical election would probably be two or three percent
7 rejection rate.

8 Q. Thank you.

9 A. So again, not taking into account that massive
10 election in 2020.

11 Q. Yes, okay. Got it. And so obviously that
12 35 percent reduction rate is no longer accurate;
13 correct?

14 A. Correct, it went down.

15 Q. And would you say that the two or three percent
16 is typical still?

17 A. Yeah, somewhere in there.

18 Q. Okay. Okay. Great. I just wanted to make
19 sure we are on the same page. So is it fair to say that
20 the number of mail ballots rejected in the March primary
21 is significantly greater than in years past?

22 A. Yes.

23 Q. And when we talk about mail ballots that are
24 ultimately rejected, is that number inclusive of mail
25 ballots that were cured?

1 MS. HUNKER: Objection, form.

2 THE WITNESS: I am not sure I understand.
3 We are still talking about the primary 2022? What
4 election?

5 Q. (By Ms. Sisco) Yes, yes, sure.

6 A. Like I say, we cured 837. And prior to that,
7 we didn't see people coming in to cure their ballots
8 because that was not an option for our senior citizens
9 voting.

10 Q. Right. And but when we are talking about like
11 the number, I think I can pull it up. It was like a
12 3000 number. Hold on.

13 A. Oh, our 31 when we all did the math?

14 Q. Exactly, that number.

15 A. 3103.

16 Q. Yes, okay. Thank you. Does that include
17 ballots that were cured? Well, now I am confused.
18 Strike that. Sorry.

19 A. Now I am confused. I am not sure we added
20 those two numbers --

21 MS. HUNKER: Objection, form.

22 THE WITNESS: -- but then I don't know if
23 we subtracted them or not.

24 Q. (By Ms. Sisco) And now I have lost my place in
25 both my outline and my notes looking for the --

1 A. My note said the 3103 did not cure. So 837
2 cured.

3 Q. Okay. Exactly.

4 A. That is what my notes say.

5 Q. Thank you. Yes. I'm sorry. Thank you both.

6 Okay. And then I'm sorry but now I lost my place here.

7 Okay. So that 31 and change number did not include
8 people that cured?

9 A. Correct.

10 Q. Okay. And did that include people who spoiled
11 their mail-in ballot to just go vote in person?

12 A. No.

13 Q. So that number, the 31 and change, that number
14 of mail ballots rejected represents individuals who
15 attempted to submit a ballot but did not have their vote
16 counted; is that right?

17 A. Correct.

18 Q. And those people never got to participate in
19 the March primary?

20 A. Correct.

21 MS. HUNKER: Objection, form.

22 Q. (By Ms. Sisco) Does that greater number of
23 rejected ballots concern you?

24 A. Oh, sure. These are our voters.

25 Q. Can you tell me more about that?

1 A. Again, every one of these voters is important.
2 Every one of them is a vote. And when we disenfranchise
3 or we lose one, that is not right. That is not what we
4 are in business for.

5 Q. Thank you. And have you -- actually, scratch
6 that because you have answered it already. Do you have
7 any reason to believe that this significantly larger
8 number of rejected of people who had their ballots
9 rejected are not otherwise eligible voters?

10 MS. HUNKER: Objection, form.

11 THE WITNESS: I'm sorry. I don't
12 understand.

13 Q. (By Ms. Sisco) I can rephrase. Do you have any
14 reason to believe that the people -- that the majority
15 of the people whose votes weren't counted because they
16 were rejected, do you think that they are -- do you
17 think there is voter fraud going on there or do you
18 think they are eligible voters who misunderstood or
19 messed up?

20 MS. HUNKER: Objection, form.

21 THE WITNESS: I think they were eligible
22 voters.

23 Q. (By Ms. Sisco) Do you think the SB-1, this ID
24 number requirement confused voters?

25 A. Yes.

1 Q. Did the secretary of state provide adequate
2 guidance on this requirement to voters?

3 A. In my opinion which is only an opinion, the
4 answer would be no.

5 Q. And has -- do you think the secretary of state
6 has provided additional -- since the March 2022 primary,
7 do you think that now the secretary of state has
8 provided adequate guidance to voters?

9 A. No.

10 Q. Okay. Thank you. So we talked a lot about how
11 people can come in person to cure their votes?

12 A. Yes.

13 Q. Okay. And I believe you said that they
14 could -- you, if their application is rejected, you were
15 just sending them a new application?

16 A. Correct.

17 Q. So could they have returned that by mail?

18 A. Absolutely.

19 Q. Okay. Do you know how many people did that?

20 A. No. As I said, we weren't tracking that at the
21 time.

22 Q. And could they provide like their number?
23 Could they cure it by email?

24 A. They could but they didn't.

25 Q. Okay.

1 A. Again, there was a strong hesitancy of sending
2 information like that over the internet in an email.
3 And I don't blame them.

4 Q. Understood. And would they provide an updated
5 number by phone?

6 A. No.

7 Q. Okay. And we talked about they could
8 theoretically do it online but it didn't work and only
9 39 voters were able to do that?

10 A. Correct.

11 Q. Okay. Can a voter -- could a voter who came in
12 person to cure their ballot, could they do that curbside
13 or would they have to physically go into your office and
14 talk to an elections worker?

15 A. We did provide curbside for that.

16 Q. Okay. Great. And we have talked a lot about
17 the steps that your office, the various steps that your
18 office has taken to help voters kind of understand and
19 cure their ballot issues. Do you remember that?

20 A. Yes.

21 Q. And one of the things you mentioned is that
22 your office started advising people to just put both
23 numbers on everything?

24 A. Correct.

25 Q. When did you start advising that?

Attachment 2

Nicole Collier

**January 1, 2023 Deposition
Excerpts**

Nicole Collier

January 30, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO,)	
et al.,)	
)	
Plaintiffs,)	
)	
V.)	Case No. 5:21-cv-00844-XR
)	
GREGORY W. ABBOTT, et al.,)	
)	
Defendants.)	

ORAL & VIDEO DEPOSITION OF NICOLE COLLIER

January 30, 2023

Oral & video deposition of NICOLE COLLIER, produced as a witness at the instance of the defendants, and duly sworn, was taken in the above-styled and numbered cause on the 30th day of January, 2023, before Patrick Stephens, Certified Court Reporter, at 209 W. 14th Street, Austin, Texas 78701.

1 A Yes.

2 Q And how frequently do you have to do that type of
3 research?

4 A I don't file bills -- that many bills that are
5 related to election law, so it's not often.

6 Q I am going to introduce our second exhibit. And just
7 a quick question: Are you still listed as a partner for
8 West & Associates, LLP?

9 A Yes. Oh, I'm so sorry. I didn't finish -- yes, good
10 catch. I'm so sorry. I forgot about that, because you said my
11 current law firm, and my current law firm is West & Associates,
12 LLP. So after I ran for office, opened up my own practice and
13 then I went with West & Associates, LLP, and I still have my
14 own law practice.

15 Q So you have both your own law practice and --

16 A Yes.

17 Q -- an associated law firm.

18 A Yes. Sorry about that.

19 Q It must keep you busy.

20 A Oh, yeah.

21 Q And is that law firm based out of Tarrant County?

22 A They have a -- we have a Fort Worth office, yes.

23 Q And so do you have the second exhibit in front of
24 you?

25 A Yes.

1 Q Okay. And do you recognize it?

2 A It looked -- I -- I've seen this before, yes.

3 Q And this is the biography that is on your Texas House
4 Member website; is that correct?

5 A Is it now?

6 Q That's a good specification. So you see on the top
7 corner where it says 87th Legislature?

8 A Yes.

9 Q Okay. And then you see on the left corner it has a
10 date that this was printed, which was August 11th, 2022.

11 A Okay.

12 Q And so would you agree with me that this is a
13 printout of the biography on your Texas House Member website as
14 of August 11th, 2022?

15 MR. BLEDSOE: Objection to form.

16 BY THE WITNESS (resuming):

17 A It appears to be.

18 Q And so you are an elected member of the Texas House;
19 is that correct?

20 A Yes.

21 Q And you represent House District 95.

22 A Yes.

23 Q And where is House District 95?

24 A In Tarrant County.

25 Q And is it entirely within Tarrant County?

1 A Yes.

2 Q And does House District 95 cover the city of
3 Fort Worth?

4 A It is in part, but yes.

5 Q And are there any other cities or municipalities that
6 House District 95 covers?

7 A Yes.

8 Q And what district -- what cities and municipalities
9 are those?

10 A Everman, Forest Hill, there's a little bit of
11 Kennedale, Arlington, Crowley and Edgecliff Village.

12 Q And how would you describe House District 95? Is it
13 urban or suburban or rural?

14 A Both.

15 MR. BLEDSOE: Object to form.

16 BY THE WITNESS (resuming):

17 A I think it's -- it has pieces of everything,
18 actually, even some rural parts.

19 Q So can you give me just a description then of House
20 District 95 in terms of its population density?

21 A Well, currently, we have over 203,000 people in
22 House District 95. It's the largest district -- House district
23 in the state. It wasn't before, but as of the date of this
24 document that you've provided, there's 203,000 people.

25 Q And when were you elected into House District 95?

1 A In November of 2012.

2 Q And you were reelected in 2022; is that correct?

3 A Yes.

4 Q And so is that six sessions?

5 A Yes, starting the sixth session.

6 Q And I see here it says, for the 87th Legislature, you
7 were on the Criminal Jurisprudence Committee and the Public
8 Health Community. Is that inaccurate?

9 A For which year?

10 Q So if you look on the website where it has Committees
11 on the second column --

12 A Oh, okay. Yes, that is correct. But this -- I see
13 -- already see something that my office didn't update on the
14 back.

15 Q And so you were the chair of the Criminal
16 Jurisprudence Committee during the 87th Legislature; is that
17 right?

18 A That it correct.

19 Q And you are a Democrat; is that correct?

20 A Yes.

21 Q And the majority of the Texas House is Republican; is
22 that correct?

23 A Yes.

24 Q And who decides who is chair of a committee in the
25 Texas House?

1 A The speaker.

2 Q And who was the speaker who appointed you?

3 A Speaker Dade Phelan. Oh, well -- in the 87th?

4 Q Yes.

5 A Oh, yeah. Speaker Dade Phelan.

6 Q And is Speaker Dade Phelan a Republican?

7 A Yes.

8 Q And so a Republican speaker appointed you as chair of
9 the Criminal Jurisprudence Committee; is that correct?

10 A Yes.

11 Q And a Republican speaker appointed you chair of the
12 Criminal Jurisprudence Committee despite the fact that you are
13 a member of the minority party; is that correct?

14 A That's the second time, yes, I was appointed chair by
15 a Republican.

16 Q And when was the previous time that you were
17 appointed chair by a Republican?

18 A The 86th.

19 Q And was that the same committee?

20 A Yes.

21 Q And so you were appointed to the Criminal just (ph)
22 -- sorry -- Criminal Jurisprudence Committee as chair two
23 consecutive sessions by a Republican speaker; is that correct?

24 A Yes, but they were different speakers.

25 Q Were you on any select committee or any other --

1 yeah, a select committee that year?

2 A I don't think so.

3 Q And are you -- were you on any committee that's not
4 listed?

5 A Are you -- well, is a conference committee the same?

6 Q I would not consider it the same.

7 A Okay. Then no. I think they would list it
8 automatically. I -- I don't have any control over this part.

9 Q Good to know. So you were not on the Elections
10 Committee; is that correct?

11 A I was -- yeah, that's correct.

12 Q And you were not on the select committee on
13 constitutional rights and remedies; is that correct?

14 A That's correct.

15 Q Okay. Now, I want you to turn the page to the first
16 sentence.

17 A Okay.

18 Q It says: The Texas Legislative Black Caucus
19 reelected Representative Collier as the vice -- first vice
20 chair in 2018. Is that an accurate statement?

21 A Well, that is true. It was in 2018.

22 Q And I was going to say is it -- is it still true that
23 you are the vice -- first vice chair?

24 A No.

25 Q And what position do you now occupy with the Texas

1 Legislative Black Caucus?

2 A I'm a member.

3 Q And so you don't have currently any -- any leadership
4 role in the caucus?

5 A Not in the black caucus.

6 Q Okay. And was that the case in the 87th Legislature?

7 A No.

8 Q And what position did you hold in the 87th
9 Legislature?

10 A I was chair of the Texas Legislative Black Caucus.

11 Q And how long were you the chair of the Texas
12 Legislative Black Caucus?

13 A Let's see. Let's see. December -- what -- let's
14 see. If it's December 2020, I think, is going into the special
15 -- I mean going into the legislative session, so it was
16 December, I believe, of 2020, and then we had our election
17 September of 2022.

18 Q So for most -- you -- I'm going to rephrase the
19 question. You were the chair of the Texas Legislative Black
20 Caucus for most of the 87th Legislature; is that correct?

21 A Yes, I would say that.

22 Q And you were the chair of the Texas Legislative Black
23 Caucus while the legislature was convening in 2021; is that
24 correct?

25 A Yes.

1 Q Are there any other caucuses that you're a member of?

2 A Yes.

3 Q And what caucuses?

4 A The Women's Health Caucus; it's -- it's the Broadband
5 Technology Caucus, Gio Capriglione is the chair of that
6 committee; and -- let's see -- the House Democratic Caucus; the
7 LGBTQ Caucus -- oh, I don't know if that's a caucus, LSG. I
8 don't know if that's a caucus. I'm trying to remember the
9 other ones. I don't remember. There might be more.

10 Q And is there an area of legislation that you focus
11 your efforts in terms of the bills that you file?

12 A I don't say that I -- I do that. There may be areas
13 that -- where, like, there's more bills, but I try to focus on
14 -- my legislation on what the community asks.

15 Q Did you file any bills in the 87th Legislature that
16 pertained to elections?

17 A I don't remember.

18 Q Okay. And we can put this one aside.

19 A Okay.

20 Q Do you know who the election administrator is in
21 Tarrant County?

22 A Yes.

23 Q And what's his name?

24 A Heidi Gilder Garcia.

25 Q Heider Garcia.

1 A Okay.

2 Q -- So does this bill prohibit poll watchers from
3 videotaping voters inside the polling places? Chairman Cain
4 says: It does not, but current law does. And you respond:
5 I'm sorry? Representative Cain [sic] says: Current law does,
6 so it's already illegal under current law. And you ask: Okay.
7 So this bill would not change that? Chairman Cain says:
8 That's correct. Did I read that correctly?

9 A That's what it says, yes.

10 Q Okay. Were you concerned about poll watchers being
11 able to record at the polling sites?

12 A I was concerned about a lot of things. I wanted to
13 get clarity because whenever -- you know, as a legislator,
14 we're writing the law, we're changing the law, and so even if
15 the law says one thing now, we can change it, and so that's
16 what I was concerned about. So as a legislator, I am just
17 trying to get an understanding because there was so many
18 differences of this bill, reiterations and errors -- you know,
19 remember the quotation mark? -- and so I just wanted to make
20 sure that if there was something that was in there that they
21 didn't intend to that we address it and get it removed at this
22 time. Also, there were things in there that they claimed they
23 didn't have the intention of doing and it wasn't removed or
24 things that were not in there that they meant to put in there,
25 so I think it's important. And that's what this floor process

1 is for, is for us to try to discuss and get a better
2 understanding of what changes to the law that the legislation
3 has.

4 Q Okay. So your questions were directed to get
5 clarification to see what SB 7 would do with respect to
6 videotaping by poll watchers in polling locations?

7 A No. I wanted to know if it changed the current law,
8 if it changed the law on videotaping inside the polling
9 location.

10 Q Okay. And let's turn to Page 87 --

11 A Okay.

12 Q -- specifically Line 22.

13 A Line 22. Okay.

14 Q And you say: Okay. Let me just give you an
15 explanation because the [sic] provided this document to talk
16 about Operation Eagle Eye. And then you say: The Republican
17 National -- Committee recruited tens of thousands of volunteers
18 to show up at polling places in communities of colors and
19 challenge voters' eligibility, taking unwelcome photographs,
20 loudly described voters on two-way radios and summoned
21 Republican-friendly police officers, and in Texas, there were
22 over 10,000 volunteers alone to do that as poll watchers. You
23 weren't familiar with that? Did I read that correctly?

24 A Yes.

25 Q And so what is Operation Eagle Eye?

1 A What I just said, what it reads right there.

2 Q Okay. And when was Operation Eagle Eye?

3 A It says -- I don't know if I put that in there.

4 Maybe in the '80s or '90s. I don't know. I mean, they still

5 do it today. They still have people that come out -- I know

6 they still have concerns. I think that there was an

7 organization that reported some irregularities with poll

8 watchers from that previous election, that people were

9 concerned about -- that if you give them more freedom, then

10 there could be an increase -- increased intimidation of -- of

11 potential voters.

12 Q And so when you're talking about Operation Eagle Eye,
13 that was in reference to a program or something that occurred
14 in the '80s or '90s, you said?

15 A I don't remember the exact date, but I recall that it
16 still -- the concept still happens, and it was -- it was
17 actually, like, sanctioned. Like, it was reported by the
18 Republican National Committee.

19 Q So let me specifically ask: When you say Operation
20 Eagle Eye, you're not referencing any specific operation that
21 occurred in 2020; is that correct?

22 A I don't know if it was called Operation Eagle Eye,
23 but I -- I know that there were efforts to increase, you know,
24 watchers -- in 2020? You're talking about 2020?

25 Q Yes, 2020.

1 A I'm sorry. This is before this happened. I don't
2 know if it was called Operation Eagle Eye, but I would -- I
3 would defer to the advocates. They know -- they have a better
4 understanding and data on that, but at the time that I asked
5 this question, there was recent reports of this same type of
6 behavior, but I just don't know the name of the -- but there
7 were advocates that did that.

8 Q Okay.

9 A I don't know if it was called Operation Eagle Eye,
10 but it was similar to that tactic.

11 Q And which advocates are you referring to?

12 A There was one in particular -- I know the NAACP, they
13 do a lot of research on -- in -- in voter protection. What was
14 the name of that group? I don't know. Maybe I'll get to it in
15 here. Maybe we'll keep reading.

16 Q Are you aware of any specific incident in Texas over
17 the last five years where a poll watcher was acting --
18 intimidated or threatened voters?

19 A Yes. I know that there's reports of it, and it was
20 recent, and that's why I brought this up.

21 Q And where were those instances? Where did they --
22 where would they -- where were they?

23 A I don't know if it was in Harris County or Waller
24 County. I -- I just don't remember exactly where, but they
25 were in Texas.

1 being required to take an oath during the discussion of HB 6 or
2 SB 7?

3 A I don't know if I -- I advocated for an oath, but
4 training definitely, and then also for reciprocal penalties. I
5 mean, if they can -- if they can make false claims, then why
6 can't the person that they made false claims against? So we
7 were trying to get some reciprocity. It didn't make it into
8 the bill.

9 Q Okay.

10 A But I believe the oath -- I think that the oath -- it
11 seemed like that's something they offered up later on, in -- in
12 terms of the person who did the bill or the -- during the
13 process.

14 Q So you did not advocate for poll watchers to have to
15 take an oath, but you did advocate for poll watchers to have
16 training; is that correct?

17 A Well --

18 MR. BLEDSOE: Object to form.

19 BY THE WITNESS (resuming):

20 A -- I wasn't the only one involved, so somebody else
21 on the Democratic side could have been advocating for it. But
22 I don't remember. I can't -- I may have. I don't remember. I
23 mean, there was a lot of stuff that I was advocating for,
24 again, with the criminal penalties, reducing the criminal
25 penalties against -- because they were doing enhanced penalties

1 and then also it was like the poll watcher could do anything
2 and not be penalized, but yet, if it was false, I mean,
3 literally, there was no consequences. There were no
4 consequences for -- if they made false statements or something.

5 Q And let's look further down. So looking at Line 16,
6 you say: The election judge is trained. They receive a
7 training, they take an oath, but the poll watcher does not take
8 an oath. So let's talk about the criminal penalties that you
9 mentioned that you say are necessary --

10 A Unnecessary.

11 Q -- unnecessary. Under this bill -- well, let me ask
12 you this: In your -- based on the information that you have
13 and based on your experiences with elections, traditionally,
14 has it been difficult to enlist poll workers?

15 Representative Gonzalez responds: Yes. Did I read that
16 correctly?

17 A Yes, because she actually practiced election law.

18 Q And you respond: And I'm talking about poll workers,
19 people who are at the clerk's -- the clerks and the presiding
20 judge. Has it been difficult to do that? Representative
21 Gonzalez: Yes, very difficult. And you respond: And so the
22 criminal penalties that are in this bill, do you believe that
23 that would further limit participation and volunteerism as a
24 poll worker? Did I read that correctly?

25 A And as -- as a poll worker, yes.

1 Q And Representative Gonzalez responds: Absolutely.
2 You know, some of these folks, it is -- it is a part-time job.
3 It's not like they -- they make a ton of money working the --
4 you know, the polls when we need them. It's very difficult for
5 polling locations to fill those -- those positions, and when
6 you put a person in a situation that they can accidentally
7 commit a crime, it's going to discourage people from taking
8 these positions and make it even harder for people to be able
9 to employ folks at the polling location where we need them.

10 Did I read that correctly?

11 A Hang on. I think I got lost. Employ folks at the --
12 yes.

13 Q Okay.

14 A And pretty much. I mean, I got the gist of what you
15 read.

16 Q Okay. And so after Senate Bill 1 was implemented,
17 did you come across any evidence that SB 1 reduced the number
18 of poll workers or election judges willing to volunteer?

19 A Yes. In fact, in Tarrant County, there was a -- it
20 was pretty hard to find people to volunteer to participate. A
21 lot of people were concerned about criminal penalties. Usually
22 it's -- when I've been to the vote -- to vote, it's a senior
23 that is there, you know, volunteering and -- and doing their
24 civic duty to participate in the -- the process, but then I
25 noticed because -- you know, I could appoint somebody, the

1 parties can appoint somebody. It was hard to find people to
2 fill up these locations, and I recall that there was an issue
3 about Tarrant County being able to staff all of the polling
4 locations.

5 Q And do you know if Tarrant County had trouble filling
6 these volunteer positions in 2020?

7 A Not -- I didn't hear about it like I did in 2022 --
8 is it 2021? 2020 -- when was that election? This last -- when
9 this was implemented, I didn't hear about it like that because
10 the party chair was even, like, pleading to make sure that
11 everybody -- you know, Find people to work these polls.

12 Q And that was your experience in the primary election
13 in 2020?

14 A It was both. Literally, we had trouble with both,
15 the primary and the general election. In 2021. I'm sorry.

16 Q In 2021.

17 A In this last -- I'm sorry -- this last election. Was
18 that in 2022?

19 Q Yes.

20 A From the 20 -- after SB 1, because you asked me about
21 SB 1.

22 Q Yes --

23 A Yeah.

24 Q -- post-SB 1.

25 A Yeah.

1 Q Okay.

2 A They had trouble for the primary and the general
3 after SB 1 was implemented.

4 Q Okay. And what evidence do you have that it was
5 because of SB 1 that caused --

6 A Well, we didn't have these increased criminal
7 penalties and we didn't have freedom to move around.

8 Q So is it simply the correlation of the changes in law
9 with the decrease?

10 A I don't know. I -- you know what? I feel like even
11 the party chair, Allison Campolo, made a reference to the --
12 the difficulty. I don't remember exactly the wording of it,
13 but it led me to believe that it was because of all of these
14 additional new provisions that people didn't have time to come
15 -- become comfortable with.

16 Q But you didn't talk to any volunteer --

17 A Oh, yes. So when I go to the neighborhood meetings,
18 I talk to seniors in -- in the neighborhood, you know,
19 associations, and they -- I had one lady tell me she wasn't
20 going to volunteer anymore. She said, Y'all ain't gon' get me.

21 Q Are you aware of Tarrant County having to close any
22 polling locations in response to the changes?

23 A I don't know exactly the number, but I do remember
24 Allison Campolo, who is the Democratic Party chair, mentioning
25 that it was going to be difficult to staff every location, and

1 it was down to the wire.

2 Q And so you're not aware of Tarrant County having to
3 close any polling locations in response to these poll watcher
4 provisions following SB 1.

5 A Not off the top of my head.

6 Q And so did you look at any studies that tracked the
7 number of individuals who were willing to volunteer post-SB 1
8 compared to pre-SB 1?

9 A I don't know if there's been any studies.

10 Q So you haven't looked at any studies. Is that fair
11 to say?

12 A Are there studies?

13 Q Well, have you looked at any?

14 A I don't know if there's any studies to look at.

15 Q And have you looked at any other counties besides
16 Tarrant County on whether there was any decrease in the number
17 of volunteers at polling locations during election post-SB 1?

18 A No.

19 Q Let's quickly turn to Page 109.

20 A Okay.

21 Q Line 10, please.

22 A All right.

23 Q And it says, Representative Collier: So do you
24 believe that this bill if passed would have the impact of
25 increasing arrests for individuals? Representative Gonzalez:

1 Absolutely.

2 A So I asked the question, Representative Collier, and
3 then Representative Gonzalez responded. Yes, that's what it
4 says.

5 Q Okay. Are you aware if there was any increase in the
6 number of arrests following the passage of SB 1?

7 A Am I aware?

8 Q Yes.

9 A I haven't looked for any.

10 Q So you haven't looked to see whether or not the
11 changes passed in SB 1 regarding poll watchers increased the
12 number of arrests. Is that fair to say?

13 A I -- I don't know if there -- if there is evidence of
14 that.

15 Q And we can put this document aside.

16 A Okay.

17 Q So I'm going to introduce our next exhibit. And so
18 this, you see on top, says House Journal, 87th Legislature,
19 Regular Session; is that correct?

20 A House Journal, 87th -- yes.

21 Q And then it says, Wednesday, May 19th, 2021.

22 A 51st day, Wednesday, May 19th, 2021. Yes.

23 Q Okay. And if we turn the page over to where it says
24 SB 7 --

25 A (Complies with request.)

1 Q Now the House Journal, that records votes and actions
2 from the legislative floor; is that correct?

3 A Say that again.

4 Q The House Journal, that records actions that were
5 taken on the House floor; is that correct?

6 A Actions that were taken. You mean it provides a
7 written -- and it's not all of it because not everything goes
8 into the -- the House Journal. I'm sorry. I'm thinking of the
9 -- well, not everything is in here, like -- like, the
10 transcript, like, you're talking about.

11 Q Uh-huh.

12 A Yeah, that's not in there.

13 Q So it's not a transcript, but it does -- it does
14 record the actions taken by the House such as votes or motions;
15 is that correct?

16 A I believe so.

17 Q Okay. And so if we look at the top of -- where it
18 says 3431, it says: SB 7 request of Senate granted, conference
19 committee appointed.

20 A Yes.

21 Q On motion of Representative Cain, the House granted
22 the request of the Senate for the appointment of a conference
23 committee on SB 7. Did I read that correctly?

24 A Yes.

25 Q And then it says: The chair announced the

1 appointment of the following conference committee on part of
2 the House on SB 7; Cain, chair; Canales, Clardy, Collier and
3 Jetton. Did I read that correctly?

4 A Yes.

5 Q And so you were a member of the conference committee
6 for SB 7; is that correct?

7 A Yes.

8 Q And so this conference committee for SB 7 had two
9 Democrats to -- what was the breakdown per party? I should
10 say.

11 A There was two Democrats.

12 Q Two Democrats?

13 A And then three Republicans, it looks like.

14 Q And the other Democrat was Representative Canales; is
15 that correct?

16 A Yes, Chair Canales, uh-huh.

17 Q Now, did you volunteer to go onto this committee?

18 A I did not -- I mean, you're at the service, so -- I
19 didn't know I was going to get appointed to it, if that's what
20 you're asking.

21 Q Yes.

22 A I did not know.

23 Q And what was discussed at the conference committee
24 regarding the reconciliation of the bill? Can you kind of just
25 give me a quick overview?

1 MR. BLEDSOE: Object to form, assumes facts not
2 in evidence.

3 BY THE WITNESS (resuming):

4 A The conference committee? I mean, literally, the --
5 that presupposes that there is a committee that meets. I mean,
6 it doesn't meet like a traditional committee.

7 Q So then how does a conference committee operate?

8 A I think it's -- what you would expect it to be is
9 that there is a actual meeting of everyone to discuss the bill,
10 but that's not how this started out. So immediately, once I
11 learned I was on this conference committee, I reached out to
12 Chair Cain and offered my assistance and said that I would be
13 -- you know, would like to meet with him to discuss the bill.

14 And so that didn't happen. And he said, Okay, I'll be in
15 touch with you, and then -- let's see. What -- he said, I'll
16 be in touch with you, and then I just so happened to call him,
17 because I didn't hear back from him, and he said that him and
18 Clardy were already discussing the bill. And I said, You are?
19 And then I said, Well, I'm coming down, and I went over to his
20 office. And it was him, Clardy and another lady who was a
21 lawyer, and she had been involved in helping them. She said
22 she drafted the bill pretty much.

23 And so I did not get invited. I just so happened -- like,
24 when I spoke with Cain, he said that they were meeting then,
25 and I wouldn't even call that an actual conference committee

1 because I tried to get Canales, but he wasn't there. But,
2 yeah, I don't think Jetton was in that -- he wasn't in that
3 meeting either.

4 Q And so did you have any exchanges with
5 Representative Cain via E-mail or phone call about the
6 conference committee bill?

7 A I don't -- like, what do you mean? Like, did we,
8 like, E-mail each other about the bill? I don't think so. I
9 think everything was more -- like, if I called, it was to --
10 for logistics, like, Where are you at, or, Come up here, or
11 something like that.

12 Q Uh-huh.

13 A But in terms of the content, I don't -- I can't
14 remember if I did. I don't think so. I don't think so.

15 Q And did you speak to any of the Senate members about
16 SB 7 as part of your being part of the conference committee?

17 A I did.

18 Q And who did you speak to?

19 A Senator Beverly Powell.

20 Q And what topics were discussed?

21 A Well, she was also appointed to the conference
22 committee in the Senate on the bill, and I asked her if she had
23 a chance to meet with the conference and she said no, they did
24 not speak with her, so she didn't know what was going on with
25 the bill.

1 Q And did you make any proposals regarding the
2 conference committee bill?

3 A Yes.

4 Q And were any of those proposals accepted?

5 A Some of them. I believe some of them were accepted.
6 A lot were not.

7 Q Can you recall which ones were accepted?

8 A And when you say me, I may not have done it, but it
9 was the, you know, Democratic faction. It was something that
10 we -- we worked with our advocates with and the Sunday voting,
11 you know, limiting Sunday, Souls to the Polls was an issue. We
12 still needed to work through the poll watcher provisions.
13 There was something about the hours that the polls would be
14 open. Let's see here. What else? What were we talking about?

15

16 The mail-in ballot. The -- I don't know if it was during
17 this time, but there was a provision that said that you had to
18 put the -- either your Social Security number or your driver's
19 license on the inside -- I mean on the outside-inside (ph)
20 envelope, and that was new, and it -- it was confusing. Like,
21 where -- what if you don't remember which one -- we brought
22 that up and they still didn't do anything with that. What if
23 you don't remember which one you used to vote -- register to
24 vote, and that was not addressed. There was one senator that
25 they said that they -- they had some provisions -- oh, what was

Attachment 3

Bridgette Escobedo May 11, 2022 Deposition Excerpts

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May 11, 2022

1

1 IN THE UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF TEXAS
3 SAN ANTONIO DIVISION

4 LA UNIÓN DEL PUEBLO §
5 ENTERO, ET AL., §
6 PLAINTIFFS, §
7 V. § CASE NO. 5:21-cv-844-XR
8 TEXAS, ET AL., §
9 DEFENDANTS. §

10 OCA-GREATER HOUSTON, §
11 ET AL., §
12 PLAINTIFFS, §
13 V. § CASE NO. 1:21-cv-0780-XR
14 TEXAS SECRETARY OF STATE §
15 JOHN SCOTT, ET AL, §
16 DEFENDANTS. §

17 HOUSTON AREA URBAN LEAGUE, §
18 ET AL., §
19 PLAINTIFFS, §
20 V. § CASE NO. 5:21-cv-0848-XR
21 GREGORY WAYNE ABBOTT, §
22 ET AL., §
23 DEFENDANTS. §

24 LULAC TEXAS, ET AL., §
25 PLAINTIFFS, §
V. § CASE NO. 1:21-cv-0786-XR
JOHN SCOTT, ET AL., §
DEFENDANTS. §

MI FAMILIA VOTA, ET AL., §
PLAINTIFFS, §
V. § CASE NO. 5:21-cv-0920-XR
GREG ABBOTT, ET AL., §
DEFENDANTS. §

BRIDGETTE ESCOBEDO
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May 11, 2022

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1 UNITED STATES OF AMERICA, §
PLAINTIFF, §
2 V. § CASE NO. 5:21-cv-1085-XR
3 THE STATE OF TEXAS, §
4 ET AL., §
DEFENDANTS. §
5 *****

6 ORAL 30(b)(6) DEPOSITION OF
7 TRAVIS COUNTY CLERK REPRESENTATIVE
8 TESTIMONY OF BRIDGETTE ESCOBEDO

9 MAY 11, 2022

10 (Reported remotely)

11 *****

12
13 ORAL DEPOSITION OF BRIDGETTE ESCOBEDO,
14 produced as a witness at the instance of the Plaintiff
15 OCA-Greater Houston, and duly sworn, was taken in the
16 above-styled and numbered cause on the 11th day of
17 May, 2022, from 10:11 a.m. to 4:27 p.m., reported
18 remotely via Zoom, before MICHELLE CARVER, CSR, in and
19 for the State of Texas, reported by oral stenograph in
20 Travis County, Texas, pursuant to the Federal Rules of
21 Civil Procedure, the current Emergency Order regarding
22 the COVID-19 State of Disaster, and the provisions
23 stated on the record or attached hereto.

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1 THE COURT REPORTER: Thank you.

2 Q. How long did you meet with your attorneys on
3 Monday? For how long?

4 A. About maybe three and a half hours or so.

5 Q. And did you talk to any staff members, any
6 of your staff members to prepare for today's
7 deposition?

8 A. My assistant directors.

9 Q. And who is that person? What is their name?

10 A. Dan Hayes and Charlie Johnson.

11 Q. And what did you talk with Dan Hayes about
12 in preparation?

13 A. We got the questions, and we got -- divvied
14 them up on topic. Dan is over the A- -- he's over the
15 ADA portion in Travis County in the division, and
16 Charlie is over the ballot by mail. So we just talked
17 about the separation of the questions.

18 Q. Did you communicate with anybody from the
19 Secretary of State's Office to prepare for today's
20 deposition?

21 A. No.

22 Q. And what about did you communicate with
23 anybody from the Attorney General's Office to prepare
24 for today's deposition?

25 A. No.

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1 Q. And did you communicate with anybody from
2 any other county elections office to prepare for
3 today's deposition?

4 A. No.

5 THE COURT REPORTER: Ms. Davis, you're
6 trailing off at the end of your questions.

7 MS. SIFUENTES DAVIS: Understood.

8 THE COURT REPORTER: Thank you.

9 Q. Ms. Escobedo, what is your job title?

10 A. I am the director of elections.

11 Q. And how long have you been in that role?

12 A. Since January of 2020.

13 Q. And what are your job duties as the director
14 of elections?

15 A. To oversee all of the elections in Travis
16 County.

17 Q. And what did you do previous to being in
18 this position?

19 A. I was an elections administrator in Bastrop
20 County.

21 Q. And did that hold the same job duties as
22 your current position?

23 A. Yes.

24 Q. You have staff that you supervise?

25 A. Yes.

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1 Q. What staff do you supervise?

2 A. We have 27 full-time employees in the
3 division.

4 Q. Is that the current number of full-time
5 employees?

6 A. Yes.

7 Q. And has that number changed over time?

8 A. Yes.

9 Q. How long has the division had 27 full-time
10 employees?

11 A. Since March of this year.

12 Q. I'm going to start by talking about voters
13 who need assistance while voting, and I'm going to ask
14 you questions about voters who need assistance. Would
15 you agree with me that voters who use an assister may
16 include voters with disabilities?

17 A. Yes.

18 Q. Would you agree with me that voters who use
19 an assister may include voters who are illiterate?

20 A. Yes.

21 Q. Would you agree with me that voters who use
22 an assister would include voters with limited English
23 proficiency?

24 A. Yes.

25 Q. Can you describe the types of people that

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1 might go with a voter to assist them?

2 MS. HUNKER: Objection.

3 THE COURT REPORTER: I didn't hear the
4 objection. I'm sorry.

5 MS. HUNKER: Objection. Form.

6 THE COURT REPORTER: And who said that?

7 MS. SIFUENTES DAVIS: Did you hear
8 that?

9 MS. HUNKER: Kathleen Hunker with the
10 State.

11 THE COURT REPORTER: Thank you.

12 Q. The question: Can you describe the types of
13 people that might (audio distortion) know.

14 THE COURT REPORTER: I'm sorry. Y'all
15 are cutting out. I'm getting like two words and then
16 nothing and then two separate words.

17 MR. POPE: Ms. Carver, this is Patrick
18 Pope. I'll try to adjust the telephone to see if we
19 can't find a better place and volume in order for you
20 to hear us.

21 MS. SIFUENTES DAVIS: Are you able to
22 hear us?

23 THE COURT REPORTER: Yes.

24 Q. The question: Can you describe the types of
25 people who might go with a voter to provide

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1 oath would want to follow the commands of this oath
2 closely?

3 A. Yes.

4 MS. HUNKER: Objection. Form.

5 Q. Do you see the part that says: The voter I
6 am assisting represented to me that they are eligible
7 to receive assistance -- as being added to the oath?

8 A. Yes.

9 Q. How will an assister obtain representation
10 from a voter that they are eligible for assistance?

11 A. Can you repeat the question?

12 Q. How will an assister obtain representation
13 from a voter that they are eligible for assistance?

14 MS. HUNKER: Objection. Form.

15 A. By being asked.

16 Q. Will the voter tell the assister that they
17 are eligible to receive assistance?

18 MS. HUNKER: Objection. Form.

19 A. I don't understand your question.

20 Q. That's good that you're telling me that you
21 don't understand my question. I appreciate that. If
22 an assister is assisting a voter --

23 A. Uh-huh.

24 Q. -- how does the assister know that that
25 person is eligible to receive assistance?

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1 A. They say -- say they need assistance.

2 Q. Okay. And is it fair to say that if -- that
3 you are not aware of what a voter or assister
4 communicates or says to each other prior to coming to
5 vote?

6 A. That's correct.

7 Q. Let's turn our attention to some of the
8 language that was removed from the oath under SB 1.
9 Prior to SB 1, would an assister be allowed to answer
10 a voter's question about the ballot?

11 A. I believe so.

12 Q. Is there a section that has been crossed out
13 from the oath that says: Answering the voter's
14 question?

15 A. Line 5.

16 Q. And has that been crossed out?

17 A. Yes.

18 Q. You understand this change to mean that
19 answering the voter's question is beyond the scope of
20 the oath?

21 MR. POPE: Objection.

22 THE COURT REPORTER: I'm sorry. Who
23 made the objection?

24 MR. POPE: Patrick Pope. Objection.

25 Form.

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1 THE COURT REPORTER: Thank you.

2 A. Can you repeat the question?

3 Q. Yes. Do you understand the change to mean
4 that answering the voter's question is beyond the
5 scope of the oath?

6 A. Yes.

7 Q. Would you agree that 6.04 allows for reading
8 the ballots to the voters, directing the voter to read
9 the ballot, marking the voter's ballot, or directing
10 the voters who mark the ballot?

11 A. Yes.

12 MS. HUNKER: Objection. Form.

13 Q. Would you agree with me that SB 1 allows for
14 four specific types of help?

15 MS. HUNKER: Objection. Form.

16 A. Uh-huh.

17 Q. Would you agree with me that the act of
18 voting in general goes beyond reading and marking the
19 ballot?

20 A. Yes.

21 Q. Do you understand this change to mean that
22 the assister must confine his or her assistance to
23 what is in -- assistance to what is in the oath?

24 A. Yes.

25 Q. So I want to go over with you a little bit

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1 more about the oath. Do you understand that the oath
2 now forecloses the assister from explaining the
3 voter -- explaining to the voter how to use the voting
4 machine?

5 A. Can you show me which -- where -- where
6 that's in here, which line it is?

7 Q. If there is no provision in the oath
8 allowing somebody to provide a certain kind of
9 assistance, are they foreclosed from providing that
10 kind of assistance?

11 MS. HUNKER: Objection. Form.

12 MR. POPE: Objection. Form.

13 A. I'm not sure I understand the question.

14 Q. Let me rephrase.

15 A. Okay.

16 Q. Is an assister allowed to provide assistance
17 beyond the assistance that is allowed for in the oath?

18 A. No.

19 Q. Does Travis County use a hard copy or a poll
20 pad to collect the oath?

21 A. A poll pad.

22 Q. And how do you keep track of -- or rather do
23 you record how many people signed an oath at each
24 election?

25 A. Yes.

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1 Q. Do you know how many people signed the oath
2 in March of 2022?

3 A. I do not.

4 Q. Do you know how many people signed the oath
5 in any previous election?

6 A. I do not.

7 Q. Let's turn to page 54 of Exhibit 2 and look
8 at Section 606 on this page. Are you familiar with
9 this provision of SB 1?

10 A. Yes.

11 Q. What does this provision do?

12 A. It says that you cannot -- a person commits
13 an offense if you offer to compensate another person
14 for assisting voters.

15 Q. And do you now understand the provision to
16 be expanded to all people who are paid to help
17 regardless of whether it is a performance-based
18 compensation team?

19 MS. HUNKER: Objection. Form.

20 Q. Would you agree with me that then somebody
21 who is paid by a nonprofit organization would be
22 prohibited from assisting?

23 A. Yes.

24 Q. Would you agree with me that this provision
25 does not limit the compensation to compensation of

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1 money?

2 MS. HUNKER: Objection. Form.

3 A. Yes.

4 Q. Would you agree with me that buying
5 someone's lunch could be considered a type of
6 compensation?

7 A. Yes.

8 Q. Have you received any training from the
9 Secretary of State about this particular new provision
10 606?

11 A. No. Well, there are advisories that come
12 out that you're -- you can read, and I have probably
13 read that, but specific training, no.

14 Q. Do you know if there was an advisory about
15 606?

16 A. Not specifically.

17 Q. What kind of advisories do you typically get
18 from the Secretary of State?

19 A. They're -- they come out periodically about
20 topics, and they are available for the public.

21 Q. Are they available -- well, are they
22 advisories directed at elections administrators?

23 A. Yes.

24 Q. And do they -- does the Secretary of State
25 send the advisory to you?

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1 A. Yes.

2 Q. Do you know which advisories were provided
3 in preparation for the March '22 -- March 2022
4 primary?

5 A. There were several.

6 Q. Which ones?

7 A. I can't recall the specific.

8 Q. Before SB 1, in what ways did the Secretary
9 of State's Office ensure that counties were following
10 the same election procedures?

11 A. I'm not sure.

12 Q. Did they make sure -- did the Secretary of
13 State's Office make sure that counties followed the
14 same election procedures?

15 MS. HUNKER: Objection. Form.

16 A. They issued advisories for us to follow.

17 Q. What else would they do to ensure that
18 counties followed the same election procedures?

19 A. Webinars and in-person seminars.

20 Q. Did you attend those webinars?

21 A. Yes.

22 Q. And did you attend the in-person seminars?

23 A. Yes.

24 Q. Who gave the seminars?

25 A. The Secretary of State's Office.

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1 director -- the legal director at the SOS and got
2 approval.

3 Q. And did they provide that approval in
4 writing?

5 A. Yes.

6 Q. Was that in the form of an e-mail?

7 A. Yes.

8 Q. In the May 7th election, how many
9 rejections -- well, you may not be prepared to testify
10 on this; so if this is a question for someone else,
11 let me know. But in the May 7th election, how many
12 rejections were provided the additional information
13 that was approved by the Secretary of State's Office?

14 A. For the application or for the ballot?

15 Q. For the application.

16 A. Right about 11 -- approximately 11 percent.

17 Q. And do you know the percentage for the
18 ballots?

19 A. It's around 3 percent.

20 Q. How would the voter know that their
21 application to vote by mail was rejected?

22 A. We would contact the voter via phone or hard
23 copy mail or e-mail if they provided that address.

24 Q. Let's look at page 38, which I think is the
25 page you're probably already on --

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1 A. Uh-huh.

2 Q. -- Section 507. What is your understanding
3 of Section 507?

4 A. If the information doesn't match, we reject
5 the application. If the information that the voter
6 provides -- either their driver's license or the last
7 four of their social -- if it doesn't match what's in
8 the database, we reject the application.

9 Q. Did Travis County develop policies on how to
10 implement this section of SB 1?

11 A. Travis County didn't, but the Secretary of
12 State did.

13 Q. And Travis County implemented those
14 policies?

15 A. Yes.

16 Q. Did Travis County have to implement any new
17 procedures or policies as a result of 5.07?

18 A. Travis County specifically, yes.

19 Q. And what were those policies that were
20 implemented?

21 A. The workflow having to keep track of the
22 rejections -- the rejected applications and the
23 accepted applications and the ballots accepted and
24 rejected as well.

25 Q. So tell me a little bit about that workflow

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1 in terms of what was the process for a ballot that
2 came in that did not have the matching number?

3 A. So if we had contact information for the
4 voter, we would reach out and contact them via phone
5 or e-mail. If they did not, then we would send them a
6 letter in the mail.

7 Q. And do you know how often the voter would
8 contact you as a result of the letter or phone call?

9 A. There were several voters that contacted us.

10 Q. Is it fair to say that not every voter you
11 communicated with by mail or phone you were able to
12 reach?

13 MS. HUNKER: Objection. Form.

14 MR. POPE: Objection. Form.

15 A. That's correct.

16 Q. For those voters, was the result that they
17 did not vote?

18 A. Some, yes.

19 MS. HUNKER: Objection. Form.

20 Q. So let's talk about the voters that you did
21 get in touch with. When you had that contact, what
22 was the next step in terms of the information you
23 provided to the voter?

24 A. We would tell them -- we would inform them
25 that we did not have the matching number in our

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1 database, and we would instruct them on how to go
2 about and cure or fix the problem.

3 Q. Did voters ever have problems curing their
4 ballots?

5 MR. POPE: Objection. Form.

6 MS. HUNKER: Objection. Form.

7 A. Yes.

8 Q. What were some of the problems that they had
9 in curing their ballots?

10 A. Some of them were not computer -- were not
11 proficient in their computer skills. Some of them
12 didn't understand the process or what was required of
13 them to -- to do on their end to cure their ballot.

14 Q. You mentioned that some were not computer
15 literate. Was there an option for them to cure their
16 ballot in person?

17 A. They could cancel their application or -- or
18 go into a polling location and vote provisionally.

19 Q. And that would require them being able to
20 access the polling place, either through
21 transportation or a ride through some other --

22 A. Yes.

23 Q. Do you know if there were voters who didn't
24 have access to a computer or transportation to be able
25 to cure their ballot?

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1 A. Yes.

2 Q. What happened with those voters?

3 A. Some of those voters just didn't vote.

4 Q. You also mentioned that there were voters
5 that didn't understand the process. Can you explain
6 to me a little bit more about the difficulties they
7 had in understanding the process?

8 A. They -- they didn't understand why they had
9 to do it. We explained to them there was a new law
10 that required this, and they just could not -- or
11 comprehend as to why this was in effect.

12 Q. Were some of those voters not unable to cure
13 their ballots?

14 A. Some of them were.

15 Q. Let's look at Section 508, which is on the
16 next page, page 39. Can you tell me what this section
17 has to do with? What does this section do?

18 A. It says that the carrier envelope has to
19 have a plastic that covers the -- the PII or the
20 personal identification, the driver's license, or the
21 last four of the social. Then it says that they have
22 to sign that they have not received a number if they
23 haven't gotten one by DPS or Social Security.

24 Q. Do you know anything about the font size of
25 the information on the carrier envelope?

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1 A. It is very small.

2 Q. Did Travis County have to implement any new
3 procedures having to do with specifically
4 Section 5.08?

5 A. We had to secure new envelopes.

6 Q. Is there anything else that Travis County
7 had to do having to do with Section 5.08?

8 A. No.

9 Q. Let's turn to page 40, and specifically
10 let's look at Section 5.10, but within this section,
11 I'm looking at -- look on page 41 that's underlined
12 and says: Allow a voter to add or correct information
13 required.

14 Is this the cure provision that you were
15 talking about earlier?

16 A. Yes.

17 Q. And it's your understanding -- or it's your
18 testimony, rather, that not all voters were able to
19 cure their ballots as required by SB 1; is that
20 correct?

21 MS. HUNKER: Objection. Form.

22 A. Yes.

23 Q. Let's just quickly look at 5.12, which is on
24 page 43. What is your understanding of this
25 provision, Section 5.12?

1 A. That the voter has an opportunity to correct
2 their defect (audio distortion) their ballot.

3 THE COURT REPORTER: I'm sorry. Could
4 you repeat that? You cut out a little bit on me.

5 A. That the voter has the opportunity to
6 correct their defect.

7 THE COURT REPORTER: Thank you.

8 Q. What was the process by which Travis County
9 implemented the defect correction portion?

10 A. So we would reach out to the voter and --
11 and make contact with them and give them -- you know,
12 help them along in the process and tell them they had
13 to take this action in order for their ballot to
14 count.

15 Q. Can you tell me about some of the specific
16 voters that your office spoke with who had issues
17 correcting their ballots?

18 MS. HUNKER: Objection. Form.

19 A. There were some. I don't -- I was not
20 specifically on the phone with the voters, but it was
21 told to me by my staff that, you know, elderly voters
22 didn't -- did not want to cure or did not understand
23 as to why they had to provide their socials or their
24 driver's licenses.

25 Q. So is it fair to say that people had

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1 concerns about providing the phone numbers for privacy
2 reasons?

3 MS. HUNKER: Objection. Form.

4 A. That's fair.

5 Q. So if someone who is eligible to vote by
6 mail put only their driver's license on the ballot --
7 the mail ballot, but you only have their social
8 security number on file, that would be rejected,
9 correct?

10 A. Yes.

11 Q. And in the November 2022 election that would
12 still be the case, correct?

13 A. Yes.

14 Q. What about somebody who is 80 years old,
15 hasn't driven in 20 years, and they lost their
16 driver's license? If the number you have in the
17 system is their driver's license and they put the last
18 four of their social, that ballot would be rejected,
19 correct?

20 MS. HUNKER: Objection. Form.

21 A. Yes.

22 Q. And if a voter doesn't have either number on
23 file, if they put their correct driver's license on
24 the ballot, it will still be rejected, correct?

25 A. If we don't have it in -- matching in our

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1 database, yes.

2 Q. And same situation, a voter puts their
3 social -- the last four digits of their social
4 security number on the ballot, but Travis County
5 doesn't have either number on file, that ballot would
6 be rejected; is that correct?

7 A. Yes. Let me clarify they would go in the
8 cure process, though. It would be finally rejected.

9 Q. But it wouldn't be accepted; is that
10 correct?

11 A. Initially.

12 Q. Do you have a sense of how many voters don't
13 have any ID number on file?

14 A. I don't.

15 Q. And this law doesn't require that
16 individuals write down both ID numbers; is that
17 correct?

18 A. That's correct.

19 Q. We have been going for almost 50 minutes
20 now. I'd like to take a short break if you are okay
21 with that?

22 A. Yes.

23 MS. SIFUENTES DAVIS: Okay. We'll go
24 off the record.

25 THE COURT REPORTER: Off the record.

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1 The time is 11:04.

2 (Off the record)

3 THE COURT REPORTER: We are back on the
4 record. The time is 11:15 a.m.

5 Q. Thank you. Let's go to page 58 -- and I
6 should say in Exhibit 2. And at the very bottom of
7 page 58, you see Section 7.04, but it continues onto
8 page 59? What does this provision of SB 1 mean for
9 Travis County?

10 A. What does that mean? I'm not sure I
11 understand the question.

12 Q. What steps did Travis County take to
13 implement any provisions in 7.04?

14 A. The vote harvesting?

15 THE COURT REPORTER: Ms. Bridgette, I
16 can't hear you.

17 A. I asked about -- I said the harvesting and
18 then we don't have any provisions against preventing
19 that.

20 Q. Did you have any communications with any
21 voters about 7.04?

22 A. Not that I am aware.

23 Q. You testified earlier that you did have
24 communications with voters about the provisions in
25 SB 1 more generally; is that right?

1 A. That's correct. So we have a call center of
2 people that call out or receive calls from voters, and
3 the call center communicates those conversations to
4 me.

5 Q. What issues did the call center share with
6 you about the implementation of SB 1?

7 A. That there was a lot of voter confusion.

8 Q. What were some of the things that voters
9 were confused about in SB 1?

10 A. They didn't understand why they had to
11 provide one or the other of their driver's license or
12 social security numbers or both, and they didn't
13 understand the cure process or the ballot tracker.

14 Q. We haven't talked about the ballot tracker
15 yet. Do you know how many people used the ballot
16 tracker in Travis County?

17 A. Not specifically.

18 Q. Do you know if the ballot tracker was
19 accessible to people with visual impairments to use
20 screen-reading software?

21 A. I don't know that.

22 Q. Did you receive any complaints about the
23 ballot tracker?

24 A. Yes.

25 Q. What were the complaints that you received

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1 about the ballot tracker?

2 A. It was difficult to navigate. It didn't
3 actually -- it wasn't allowed to change the voter's
4 information. They could only attest to what was
5 displayed on the screen.

6 Q. Did you have voters that called you who were
7 never able to successfully use the ballot tracker?

8 A. Yes.

9 Q. Were the voters who you communicated with
10 about SB 1 frustrated?

11 A. Yes.

12 Q. Do you have any concerns about the impact of
13 SB 1 on the upcoming November 2022 midterm election?

14 MS. HUNKER: Objection. Form.

15 MR. POPE: Objection. Form.

16 A. My only concern is that it will have a new
17 round or new voters that vote by mail that try to vote
18 by mail.

19 Q. Is it fair to say that more people typically
20 vote in midterm elections than in March primaries?

21 A. Yes.

22 Q. And so there will be people who are voting
23 by mail for the first time in the November 2022
24 election; is that right?

25 A. Yes.

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1 Q. Are you aware of any incidents of voter
2 fraud associated with in-person assistance at the
3 polling place?

4 A. I'm not aware.

5 Q. Are you aware of any incidents of voter
6 fraud in Travis County associated with mail-in
7 ballots?

8 A. I'm not aware.

9 Q. Are you aware of whether Texas has other
10 laws that existed prior to SB 1 that criminalizes
11 unlawful voter assistance?

12 A. I believe so.

13 Q. You testified at the beginning of the
14 deposition that you currently have 27 staff members;
15 is that correct?

16 A. Yes.

17 Q. And that number began -- the 27 number began
18 in March of 2022; is that correct?

19 A. Yes.

20 Q. How many staff members did you have before
21 March of 2022?

22 A. We had 23.

23 Q. Was SB 1 responsible for the addition of the
24 four new staff members?

25 A. No.

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1 Q. What was the reason why Travis County hired
2 four new staff members?

3 A. We created an ADA Division.

4 Q. And am I correct that your colleague, Daniel
5 Hayes, will be testifying about the ADA Provision?

6 A. Yes.

7 MS. SIFUENTES DAVIS: I'm going to pass
8 the witness to Mr. White.

9 MR. WHITE: Can we go off the record
10 for a minute?

11 THE COURT REPORTER: Off the record.
12 The time is 11:21 a.m.

13 (Off the record)

14 THE COURT REPORTER: On the record.
15 The time is 11:23 a.m.

16 EXAMINATION

17 BY MR. WHITE:

18 Q. Ms. Escobedo, how are you?

19 A. I'm well.

20 Q. Are you aware that you're still under oath?

21 A. Yes.

22 Q. So I wanted to ask a few questions about
23 SB 1's provisions related to poll watchers.

24 A. Okay.

25 Q. Are you prepared to testify about that

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1 How did you answer those questions?

2 A. We just told them that according to this
3 Code that they were allowed to sit or stand near
4 enough to see or hear, and so they had to just use
5 their best judgment with that.

6 Q. So would you agree with me that this
7 provision prevents election workers from denying a
8 poll watcher free movement at a polling place?

9 MR. POPE: Objection. Form.

10 MS. HUNKER: Objection. Form.

11 Q. Do you want me to repeat the question?

12 A. Yes.

13 Q. Would you agree that this provision prevents
14 election workers from denying a poll watcher free
15 movement at a polling site?

16 A. Yes.

17 MS. HUNKER: Same objection.

18 Q. And what is your understanding of what it
19 means to deny a poll watcher free movement at a
20 polling site?

21 A. To not allow them to go into a specific
22 location or be at a specific process.

23 Q. Did the Secretary of State's Office provide
24 any guidance on what it means to deny a poll watcher
25 free movement at a polling place?

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1 A. Not specific items, but they did say that
2 there was a poll watcher -- a new -- SB 1 required a
3 new training for the poll watchers to -- to take.

4 Q. When you say "they," you're referring to the
5 Secretary of State's Office?

6 A. Yes.

7 Q. And who in the Secretary of State's Office
8 told you that?

9 A. The staff attorneys.

10 Q. And you also just mentioned that -- the
11 training program for poll watchers. Are you familiar
12 with that training program?

13 A. Yes.

14 Q. Have you completed it yourself?

15 A. Yes.

16 Q. Is there an assessment at the end of the
17 training program that ascertains whether the poll
18 watcher has understood the material in the program?

19 A. I don't remember.

20 Q. Okay. Would the existence of some sort of
21 assessment at the conclusion of the training program,
22 in your opinion, affect how effective the program is?

23 MR. POPE: Objection. Form.

24 A. Based on feedback that I heard, it's --
25 it's -- it's not very effective.

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1 Q. And what sort of feedback have you heard?

2 A. That it is nothing more than reading the
3 poll watcher guide.

4 Q. And where did you hear this from?

5 A. Various sources. The -- one of the party
6 members. A member of a particular party that we
7 contract with.

8 Q. Who was that member?

9 A. The executive director of the Republican
10 Party (inaudible).

11 THE COURT REPORTER: I'm sorry. Can
12 you repeat your answer?

13 A. The executive director of the Republican
14 Party in Travis County.

15 Q. So the executive director of the Republican
16 Party complained to you about the training program?

17 A. Well, he didn't complain. He just made a
18 statement saying that it's not -- the training was not
19 very helpful. There was still a lot of questions of
20 what, you know, could and couldn't be done in a
21 polling location.

22 Q. Understood. And what were the circumstances
23 under which he made this or she made this statement to
24 you?

25 A. We were trying to make sure that all of the

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1 parties understood that we were all on the same page;
2 that we understood what poll watchers could and
3 couldn't do.

4 Q. Was this during some sort of call that your
5 office had with --

6 A. Right. Leading up to the primary election,
7 we regularly communicate with both parties.

8 Q. And so just to be clear, this is the call
9 that you had with the election -- with the executive
10 director of the Republican Party?

11 A. Yes.

12 Q. And who else was on the call?

13 A. Just him and I.

14 Q. Okay. Did you receive any other complaints
15 about the poll watcher training program?

16 A. No.

17 Q. And after you heard this critique of the
18 program from the executive director of the Republican
19 Party, did you do -- did you take any follow-up steps?

20 A. No.

21 Q. Okay. And if you wouldn't mind now turning
22 to page 29 and take a look at Section 4.09.

23 A. Okay.

24 Q. Are you familiar with this provision of
25 SB 1?

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1 A. Yes.

2 Q. And what does this provision do?

3 A. It says that you commit an offense if you
4 knowingly obstruct a poll watcher from viewing
5 something.

6 Q. And what sorts of actions can obstruct the
7 view of a poll watcher?

8 A. If you don't allow them to see someone
9 check -- being checked-in on a poll book or they ask
10 to view a record.

11 Q. Did you receive any guidance from the
12 Secretary of State's Office about the types of actions
13 that can obstruct a poll watcher?

14 A. Not that I can recall.

15 Q. So would you agree with me that this
16 provision makes it a criminal offense if a person
17 obstructs the poll watcher?

18 A. Yes.

19 Q. And did you receive any concerns from
20 election workers about this provision?

21 A. Yes.

22 Q. And what were those concerns?

23 A. So they -- the workers would have -- at the
24 end of a training session, they would tell our
25 trainers that it was a concern for them that they

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1 didn't want to be committed of an offense, and so they
2 had concerns about working in the future. So, yeah,
3 this one was -- was really -- caused a lot of concern
4 for them.

5 Q. Do you know if there are any election
6 workers who decided not to work in the future because
7 of this provision?

8 A. Yes. There are several.

9 Q. There are several? Do you know how many?

10 A. I don't know exactly how many.

11 Q. More than 5?

12 A. Yes.

13 Q. More than 10?

14 A. Yes. I'd say probably between 25 to 50.

15 Q. So 25 to 50 election workers who chose not
16 to work in the future because out of concerns of
17 SB 1's provisions relating to poll watchers?

18 A. Yes.

19 Q. Okay. And are these individuals who had
20 served as election workers during previous election
21 cycles?

22 A. Yes.

23 Q. Did this lead to any staff shortages during
24 the March 2022 primary?

25 A. Yes.

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1 Q. And how significant of staff shortages did
2 Travis County experience?

3 A. Initially, it was -- it was quite
4 significant; so yes.

5 Q. What impact did that have on your ability to
6 administer the March primary election?

7 A. Well, we, Travis County, were able to get
8 all of our polling locations fully staffed. But in
9 the very beginning, we start recruiting quite early
10 for the primary election like in November and
11 December, and that was initially when SB 1 went into
12 effect. And so there was so many unknowns, and a lot
13 of the election workers had just heard on the news or
14 via social media that they can be committed of an
15 offense. And so when we were initially around that
16 same time calling them asking them, you know, if they
17 were interested in working the primary election, they
18 related to us they were not interested.

19 Q. And so you were ultimately able to have all
20 your polling sites fully staffed?

21 A. Right.

22 Q. And tell me a little bit about the process
23 of replacing these election workers.

24 A. So we just -- we did several different
25 things: We did a press release. We really relied on

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1 our parties and just community organizations to help
2 us recruit these people to work.

3 Q. Did these recruitment efforts detract from
4 other responsibilities in your office?

5 A. Sometimes.

6 MS. HUNKER: Objection. Form.

7 Q. How so?

8 A. So we had to reallocate our resources to --
9 to make phone calls and really secure these people; so
10 we had to borrow from other people in our division.

11 Q. You had to -- just to make sure I'm
12 understanding the answer, you had to borrow
13 individuals who --

14 A. Right. So we have -- in Travis County we
15 have a call center that the voters or the general
16 public can call into and we provide information, but
17 we needed to utilize half of our call center to help
18 our personnel department to make outbound calls to
19 different, you know, groups to, you know, help secure
20 election workers.

21 Q. I see. So did the fact that folks in this
22 call center had to engage in recruitment, did that
23 affect your office's ability to receive phone calls
24 from voters?

25 A. Right. Half of the call center was not

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1 available to the general public.

2 Q. Okay. Did you receive any complaints from
3 voters about not being able to get in touch with your
4 office during this time?

5 A. It increased the wait time.

6 Q. Increased --

7 A. They -- right. They were able to get
8 through, but they had to hold for a little bit.

9 Q. How significant of an increased wait time
10 was it?

11 A. I don't know specifically.

12 Q. So I do want to ask more about Travis
13 County's experience with poll watchers. Before I do
14 that -- so we had just spent the last few minutes
15 talking about the different provisions of SB 1
16 relating to poll watchers. Did you have any
17 communications -- did you or your office have any
18 communications with members of the Texas Legislature
19 about these provisions prior to SB 1 being enacted?

20 A. No.

21 Q. And have you had any communications with the
22 Secretary of State's Office about any of the
23 provisions relating to poll watchers that we have
24 discussed?

25 A. So if we had a question specifically about

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1 any of the provisions, we would have called the legal
2 line, but I can't recall a specific instance where we
3 needed guidance.

4 Q. And apologies for jumping around. A moment
5 ago you had mentioned shortages of poll watchers and
6 your efforts to recruit replacements. Are you
7 concerned about staffing shortages in future
8 elections?

9 A. Not poll watchers.

10 Q. Oh, I'm sorry.

11 A. Poll workers?

12 Q. Poll workers.

13 A. Yes.

14 Q. Excuse me. Yes?

15 A. Yes.

16 Q. "Yes" you are concerned about shortages in
17 future elections?

18 A. Yes.

19 Q. Okay. Did your office record the number of
20 poll watchers who report for service in a given
21 election?

22 A. Yes.

23 Q. How does your office record that
24 information?

25 A. There's two different avenues for recording

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1 that. So we have our polling locations return the
2 certificate of appointment for the polling locations
3 back to our office, and our Central Counting or
4 presiding judge keeps track of the number and there's
5 a sign-in sheet that we keep track of.

6 Q. Okay. Do you know how many poll watchers
7 reported for service during the March 2022 primary
8 election?

9 A. Not off the top of my head, but it was
10 probably between 5 and 10, maybe more.

11 Q. 5 and 10 total?

12 A. Total. In Central -- I'm sorry, let me
13 clarify. In our Central Counting Station where we
14 count the ballots, it was probably between 5 and 10.

15 Q. And were there poll watchers at other
16 polling sites?

17 A. Yes. There was -- in the primary election
18 of 2022, there were several. And I -- I would say
19 probably throughout the early voting period and
20 Election Day probably 20 to 25 total.

21 Q. So several on Election Day?

22 A. Yes.

23 Q. And can you be more specific when you say
24 "several"?

25 A. I don't have a number.

Attachment 4

Elaine Jones

**April 25, 2023 Deposition
Excerpts**

Elaine Jones

April 25, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO,)
et al.,)
Plaintiffs,) Case No.
vs.) 5:21-CV-844-XR
GREGORY W. ABBOTT, et al.,)
Defendants,)

OCA-GREATER HOUSTON, et al.,)
Plaintiffs,) Case No.
vs.) 1:21-CV-780-XR
JANE NELSON, et al.,)
Defendants.)

HOUSTON AREA URBAN LEAGUE, et)
al.,) Case No.
Plaintiffs,) 5:21-CV-848-XR
vs.)
GREGORY WAYNE ABBOTT, et al.,)
Defendants.)

LULAC TEXAS, et al.,)
Plaintiffs,) Case No.
vs.) 1:21-CV-0786-XR
JANE NELSON, et al.,)
Defendants.)

1 _____
2 MI FAMILIA VOTA, et al.,)
3 Plaintiffs,) Case No.
4 vs.) 5:21-CV-0920-XR
5 GREG ABBOTT, et al.,)
6 Defendants.)
7 _____

8 UNITED STATES OF AMERICA,)
9 Plaintiff,) Case No.
10 vs.) 5:21-CV-1085-XR
11 THE STATE OF TEXAS, et al.,)
12 Defendants.)
13 _____
14

15 ORAL/VIDEOTAPED DEPOSITION OF

16 ELAINE JONES

17 APRIL 25, 2023
18 _____
19

20 ORAL/VIDEOTAPED DEPOSITION OF ELAINE JONES,
21 produced as a witness at the instance of the
22 Defendants, and duly sworn, was taken in the
23 above-styled and numbered cause on April 25, 2023, from
24 10:02 a.m. to 12:24 p.m., Nilda Codina, Notary in and
25 for the State of Texas, recorded by machine shorthand,
remotely from Portland, Texas, County of Nueces & San
Patricio, pursuant to the Federal Rules of Civil
Procedure, the current Emergency Order regarding the
COVID-19 State of Disaster, and the provisions stated
on the record or attached hereto.

1 Q. And was that Marcos?

2 A. Yes.

3 Q. And again, without revealing what you
4 discussed, how long did you meet with Marcos?

5 A. I had about a one-hour Zoom meeting with him,
6 and -- or I had two, two meetings with him, for about
7 one hour on Zoom. And we spoke on the phone for
8 probably an hour, several weeks ago.

9 Q. So about two hours in total preparation,
10 you'd say?

11 A. Two to three, yes.

12 Q. Okay. And do you have prepared notes with
13 you today, that you intend to consult during the
14 deposition?

15 A. No. I'll even take off my reading glasses,
16 if that helps.

17 Q. No. You can keep them on. It's a good look.
18 Ms. Jones, have you ever been deposed before?

19 A. I have been a -- I have been a witness in
20 a -- in a trial, but I have not been deposed.

21 Q. Okay. And if you were a witness at trial,
22 was it just that one time you testified in court?

23 A. Yes. Well, there's been two times that I --
24 I guess one time it was a deposition, and one time I
25 was actually in a courtroom.

1 Q. Would you mind telling me, what was the
2 subject of that deposition?

3 A. The deposition was -- was in a minor traffic
4 accident, and the lawyer was suing my insurance
5 company. So we went through, sat around a table, and I
6 was asked questions and answered them.

7 Q. And the trial, was that also the same?

8 A. Yeah. The trial was in an actual courtroom,
9 and I was asked questions from both attorneys.

10 Q. And besides that, have you ever been involved
11 in a lawsuit?

12 A. No.

13 Q. Ms. Jones, where did you go to school?

14 A. I assume you mean college?

15 Q. Yes, ma'am.

16 A. Texas A & I in Kingsville, back before it was
17 renamed.

18 Q. And did you go to graduate school?

19 A. No.

20 Q. Do you have --

21 A. I have attended post-college courses, but
22 never far enough to get a degree.

23 Q. Were those graduate courses or some sort of
24 specialty training?

25 A. It was to get a teacher certification in

1 computer science and computer programming, so I became
2 certified after that.

3 Q. Ms. Jones, are you married?

4 A. No, sir. Widow.

5 Q. Sorry to hear that.

6 When did your --

7 A. Thank you.

8 Q. -- spouse pass?

9 A. Pardon?

10 Q. What year did your spouse pass?

11 A. 2014.

12 Q. And do you live alone?

13 A. Yes.

14 Q. Have you ever run for public office?

15 A. Does precinct chair count as a public office?

16 I did run for precinct chair.

17 Q. How did that go for you?

18 A. I lost.

19 Q. Sorry to hear that.

20 A. Not sure I am.

21 Q. Have you ever participated in a campaign for
22 public office, either as a volunteer or a paid
23 employee?

24 A. Yes.

25 Q. A few or many, would you say?

1 A. If you're including walking around, carrying
2 signs at voting places and stuff like that, I would say
3 many. And as far as working in an office for a
4 candidate, two or three times.

5 Q. Do you recall which candidates those were
6 for, the two or three times?

7 A. Margaret Canales for County Commissioner in
8 2018, which she won, and again in 2022, which she lost.
9 And there have been some city councils, which I
10 participated in with phone calls and so on.

11 Q. Okay.

12 A. Yeah.

13 Q. And you're a member of AFT, that's the
14 American Federation of Teachers, correct?

15 A. I am. I am.

16 Q. And you're also a member of TARA, that's
17 Texas Alliance for Retired Americans, correct?

18 A. Yes, yes.

19 Q. What do you understand this case to be about?

20 A. I understand this case to be about vote by
21 mail being, in my opinion, more difficult than it needs
22 to be, to be successful.

23 Q. And you understand that AFT and TARA are
24 plaintiffs in this case?

25 A. Yes.

1 Q. And that they disclosed you as a potential
2 witness?

3 A. Central sounds scary, but yes, a witness.

4 Q. Do you know why they did that?

5 A. I guess because I had had a typical story.

6 Q. Okay. We'll get to that. I would like to
7 introduce my first exhibit, Exhibit A. I will upload
8 this into the chat, so bear with me.

9 (Exhibit No. A marked.)

10 Q. (BY MR. BERG) Ms. Jones, are you able to open
11 the document, that I just uploaded into the chat?

12 It says, "LULAC plaintiffs."

13 A. -- it says Seventh Supplemental disclosures?

14 Q. Yes, "LULAC Plaintiffs' Seventh Supplemental
15 Rule 26 Initial Disclosures."

16 Is that what you're seeing on the screen?

17 A. Yes. Do you want me to open it?

18 Q. If you scroll to page 2, No. 2 --

19 A. Plaintiffs.

20 Q. -- it says, "Ms. Elaine Jones" --

21 A. I, don't see the -- say something, it comes
22 up in the lower, left-hand corner, and I don't see it
23 in the lower, left-hand corner. Let me try this again.
24 I got a green check mark. Ah, there it is. Okay. You
25 wanted me to scroll where?

1 Q. Page 2, Ms. Jones.

2 A. Page 2. Okay.

3 Q. The bottom No. 2, it says, "Ms. Elaine
4 Jones."

5 A. Yes.

6 Q. Do you see it?

7 It says, "Ms. Jones is a member of AFT and
8 TARA and will likely have discoverable information
9 regarding the injury she suffered, because of SB1."
10 Did I read that correctly?

11 A. Yes.

12 Q. And if I use the term "SB1," I am referring
13 to that Senate Bill --

14 A. Senate Bill 1.

15 Q. -- the one at issue in this lawsuit. Does
16 that make sense?

17 A. Yes.

18 Q. And if I use the phrase "AFT" or "they AFT,"
19 I'm referring to the American Federation of Teachers.
20 Does that make sense?

21 A. Yes.

22 Q. And if I use the phrase "TARA," I'll be
23 referring, obviously, to the Texas Alliance for Retired
24 Americans. Does that make sense?

25 A. Yes, sir.

1 told us that -- that they were voting for it, because
2 they believed it was the right thing, but I haven't had
3 any discussions or heard any discussions from
4 dissenting votes. So...

5 (Reporter clarification.)

6 Q. (BY MR. BERG) Do you think any member of the
7 legislature who voted for SB1 was attempting to make
8 voting less accessible to seniors?

9 A. That's a conclusion. I believe that
10 sometimes they, more or less, have to vote for the
11 whole bill. They don't have a choice to be choosy.
12 And if they -- if their leaders want the whole bill
13 passed, they vote for it, but that's a conclusion on my
14 part, with some rumors.

15 Q. You think any individual legislators voted
16 for SB1 specifically to make voting less accessible to
17 seniors?

18 A. I do not absolutely know. Oh, go ahead.

19 MR. MOCINE-MCQUEEN: Again, just one
20 to two for this line of questioning. Repeat my
21 objection that -- that this calls for speculation, and
22 I'll just let this stand, if that's okay with you,
23 Counsel, until the end of this line of questions.

24 MR. BERG: Of course.

25 A. I -- I said I didn't have any direct

1 knowledge. So...

2 Are you anticipating me saying something
3 else?

4 Q. (BY MR. BERG) Um, not specifically.

5 A. Okay.

6 (Laughter.)

7 Q. (BY MR. BERG) In the disclosure, which I
8 admitted as Exhibit A, it mentions that you had
9 suffered injuries, because of SB1.

10 Could you be more specific about what
11 injuries you've suffered, because of SB1?

12 A. Yeah --

13 MR. MOCINE-MCQUEEN: Again, just
14 objecting that the question of injury is a legal
15 conclusion, and the witness is not testifying as an
16 attorney or as a -- an expert witness.

17 A. See, I don't know --

18 Q. (BY MR. BERG) You can answer, if you're able.

19 A. Well, I don't know your definition as an
20 injury. It did shake my confidence in how easy it was
21 to -- to make a mistake, even for a knowledgeable
22 person. I don't know if that's an injury, but I think
23 it's something that needs to be repaired.

24 Q. So generally, SB1 made you less confident in
25 the political process; is that a fair statement of your

1 position?

2 A. Yes, better than I could have said it.

3 Q. And you're, currently, registered to vote; is
4 that correct?

5 A. Yes, sir.

6 Q. And that is in Portland, Texas?

7 A. Yes.

8 Q. Is that correct?

9 A. Yes.

10 Q. And what other counties have you voted in, in
11 Texas, that you --

12 A. Nueces --

13 Q. -- can recall?

14 A. -- County, 40 years ago.

15 Q. Is that it?

16 A. Yes.

17 Q. Have you ever voted in a -- in another state?

18 A. No.

19 Q. So all of your votes have either been in
20 Nueces or San Patricio County; is that correct?

21 A. Yes.

22 Q. Do you have a driver's license?

23 A. I do.

24 Q. Do you own a car?

25 A. I do.

1 Q. Do you drive that car?

2 A. I do.

3 (Laughter.)

4 Q. (BY MR. BERG) Any issues driving your car?

5 A. No.

6 Q. Um --

7 A. Just gasoline.

8 Q. And I think you said that you generally --

9 correct me if I'm wrong. I believe you said you,

10 generally, vote absentee; is that correct?

11 A. Yes.

12 Q. Did -- did that start when you became

13 eligible on your 65th birthday?

14 A. No. When I was 65, my husband was still
15 alive, so we continued our usual method of going to

16 vote together, standing in line together. And so I did
17 not vote by mail at those times.

18 Q. So you started voting absentee sometime after
19 your husband passed?

20 A. Yes, he passed away in -- in 2014. I do not
21 remember how I voted in 2015, but 2016, you must
22 remember was a memorable year in elections, and I do
23 definitely remember voting by mail in 2016, but 2015,
24 don't know.

25 Q. Since 2016, have you voted exclusively by

1 absentee --

2 A. Yes.

3 Q. -- or in person? Okay.

4 Let me clarify that question for you.

5 A. I was going to say I interrupted you with an
6 or question, and I said yes. So, yeah. Yes, I have
7 voted exclusively by mail since 2015.

8 Q. Thank you for restating my question for me.

9 (Laughter.)

10 Q. (BY MR. BERG) We've talked about the 2022
11 elections, if that's all right.

12 A. Right.

13 Q. Did you vote absentee for the March 1st, 2022
14 primary?

15 A. Yes.

16 Q. And did you vote absentee for the May 7
17 Constitutional Amendment Election?

18 A. Yes.

19 Q. Did you also vote absentee for the May 24th
20 Primary Run-off Election?

21 A. Yes.

22 Q. And did you vote absentee for the November
23 8th General Election?

24 A. Yes.

25 Q. Sorry, have you voted in 2023?

1 A. Yes.

2 Q. And is that for the May 6th uniform election?

3 A. Yes. City Council and School Board and Bond
4 Election.

5 Q. Got it. When you were voting in the 2022 --
6 before elections in 2022 and the one election in 2023,
7 did you have any issues voting absentee?

8 A. I had a -- an issue with the application
9 procedure, and I had an issue in the primary.

10 Q. So you had -- did you apply to vote absentee
11 for the whole year?

12 A. Yes, I did.

13 Q. And you had trouble doing that? Is that your
14 testimony?

15 A. Yes, it is. I don't know how de- -- oh, go
16 ahead. I'll shut up.

17 Q. Can you tell me about your issues registering
18 to vote by mail for 2022?

19 A. Okay. Okay. The application, okay. I
20 filled out the application. I don't know how familiar
21 you are with the physical form of the application, but
22 most of what you fill out is in the top half of the
23 form. And then there's the bottom half of the form,
24 which is involved only if you have somebody who is
25 assisting you.

1 And then down at the very bottom of the form,
2 you have your signature. Well, what I had heard --
3 yes, I know this is hearsay, but what I had heard
4 predominantly was people were sending in their ballots
5 without a signature. So I was filling out my top half
6 of my ballot. And I went, "Oh, I don't want to forget
7 my signature." So I jumped down, and I did the
8 signature. And I folded up the form and sent it out,
9 and I didn't do the last thing I needed to do, which
10 was to make the little check box to say I was 65 or
11 older is why I qualified for a VM -- VBM. So I sent
12 that off without the check box being checked, simply
13 because I was nervous that I would forget to sign it.
14 And I want you to know that I never had a problem
15 before, and this is why it shakes me that if -- even if
16 I can have a problem, you know, that simple, this
17 concerns me. Like, that signature should be up where
18 you're signing everything, you know. Anyway, so I sent
19 that off. And do you want to follow -- you want to
20 quiz me through it, rather than me just blab it out?

21 Q. Sure. Let -- let me -- let me show off a
22 little.

23 A. Okay. You don't get that often.

24 Q. So you -- your testimony is that you filled
25 out the ABBM correctly, other than the -- checking the

1 box that you were 65 or older --

2 A. Right.

3 Q. -- because your were nervous about the
4 signature requirement --

5 A. Right.

6 Q. -- is that correct?

7 A. Correct.

8 Q. When did you realize that you had not
9 submitted your ABBM correctly?

10 A. I received -- and I do not remember if it was
11 a text or a phone call. It was not an e-mail, but it
12 was a text or a phone call I received and said that it
13 was incomplete.

14 Q. And was that from the county?

15 A. Yes.

16 Q. Do you recall any of the substance of what
17 the message said?

18 A. No --

19 Q. Do you remember what it said.

20 A. It was very polite. It was very polite, and
21 it was very clear and that -- what I had missed doing.
22 So I had a form to fill in, and I filled it in, filled
23 it in and completed the ballot. And I drove it to
24 Sinton, which is -- I told you is 30 miles one way.
25 And I worked 20 miles the other, and because I was so

1 shook up that I forgot something so simple, that I
2 wanted to give it to them and have them proofread it,
3 you know. I felt like a student and a teacher. I
4 wanted them to proofread it and make sure that it was
5 done right, because it is -- I doubt that it's ever
6 happened to you, but it is so embarrassing to tell
7 people how to do things and then you make the same
8 mistake. Anyway, so I wanted that confidence, so I
9 drove there and then handed it to them and they okayed
10 it.

11 Q. So to summarize, you first found out that you
12 had missed the 65-or-over box, when someone from San
13 Patricio County contacted you and said you had done so;
14 is that correct?

15 A. Right. Very nice group of people by the way.
16 Put in a little promo for them.

17 Q. I will keep that in mind. Thank you.

18 And then you drove to the -- did you drive to
19 the Election Administrator's Office, or where did you
20 go?

21 A. There is an election's office that's across
22 the back street of the courthouse. And --

23 Q. Okay.

24 A. -- they have their own little office. And
25 you go in there, and you hand it through the glass

1 window and so they approved it, so I drove back through
2 Portland, back to work.

3 Q. Got it.

4 A. So I did -- I did lose a little income that
5 day.

6 Q. And I believe you also mentioned you had some
7 trouble in the primary. Can you tell me about that?

8 A. Yeah. I mean, when a bad thing starts, it
9 just continues. I -- then when I got the -- the
10 ballot, I filled it out. And I, again, thought I was
11 being so careful. I should have had my user releases
12 sitting in front of myself, but I thought I was being
13 so good. And I folded it up and sent it off, very
14 happy.

15 MR. BERG: Marcos, did you have
16 something to say?

17 MR. MOCINE-MCQUEEN: Sorry, I was just
18 going to say we've been on the record for about an
19 hour. I don't know how long this line of questioning
20 is going to take, but I just wanted to request that we
21 take a break sometime, in the not-too-distant future.

22 MR. BERG: Yeah. Do you want to take
23 a break right now, about 10 minutes? Is that all
24 right, Ms. Jones? 10 minutes good?

25 THE REPORTER: That would be great.

1 MR. BERG: Okay. Let's go off the
2 record.

3 THE VIDEOGRAPHER: This ends media
4 unit 1, in the deposition of Elaine jobs. The time is
5 11:02 a.m. We're going off the record.

6 (Off the record.)

7 THE VIDEOGRAPHER: This begins media
8 unit No. 2, in the deposition of Elaine Jones. The
9 time is 11:13 a.m. We're back on the record.

10 Q. (BY MR. BERG) And Ms. Jones, if I could just
11 ask a couple questions to clarify where we were before
12 we took a break, you had testified that you had had
13 some trouble with your ABBM; is that correct?

14 A. ABM?

15 Q. Sorry, ABBM.

16 A. Lawyer talk.

17 Q. And you had testified that you were worried
18 about signature requirement, and you forgot to check
19 the 65-and-over box; is that correct?

20 A. Right. Right.

21 Q. That you then went into the election office
22 in the courthouse and made sure that was filled out in
23 person; is that correct?

24 A. Right.

25 Q. And then at that point, you were confident

1 that your ABBM was going to be accepted; is that
2 correct?

3 A. Yes, ABBM was accepted.

4 Q. And you -- we had just started to get into
5 the primary election. You had previously testified
6 that you had some issue in the primary election; is
7 that correct?

8 A. Yes.

9 Q. Could you tell me about problems you
10 experienced during the March 1st primary election,
11 please?

12 A. Yes. Speed, maybe nervousness, I filled out
13 the form just fine, but for some reason or other, I did
14 not put the numbers under the flap. And again, I was
15 totally aware that that had to be done, but for
16 whatever reason, maybe I was in a hurry to get to work,
17 maybe who knows. I'm not going to flimflam you. I
18 don't know why I forgot to do that, and I know very
19 well to do it. I will say in my defense, it's an odd
20 position, but nevertheless, I knew that it was there.
21 And I should have done it, so I sent it off. You want
22 to resume your questioning? Okay.

23 THE REPORTER: Oh, you're on mute,
24 Mr. Berg.

25 Q. (BY MR. BERG) So in the March 1st, 2022

1 election, you were nervous, and you forgot to put the
2 ID numbers; is that correct?

3 A. Yes.

4 Q. At that point, did the county again contact
5 you, to tell you that your ballot had been rejected?

6 A. Yes.

7 Q. And do you remember the substance of the
8 communication from the county?

9 A. If you mean do I remember if it was a text or
10 a phone call, no, I don't. I know that they were going
11 to send me a document to complete. That's what I
12 remember.

13 Q. In the notice that your ballot had been
14 rejected, include the information that you forgotten to
15 put the ID numbers?

16 A. Yes.

17 Q. What was your reaction when you found that
18 you had forgot to put the ID numbers?

19 A. Oh, that's not a spoken record for the
20 Court's lady. I pounded myself on the head.

21 Q. Yeah. And is the reason you patted yourself
22 on the head --

23 A. It wasn't a pat.

24 Q. -- was the voter education you had done for
25 AFT and TARA?

1 And then --

2 THE REPORTER: I'm sorry. I didn't
3 get that answer.

4 THE WITNESS: Yes. Yes. Yes.

5 THE REPORTER: Thank you. Sorry.

6 THE WITNESS: That rest that -- that
7 rest that we took must have lowered my memory of
8 everything I was supposed to do, I apologize.

9 Q. (BY MR. BERG) Once the county notified you
10 that they were sending you a replacement ballot, what
11 happened next?

12 A. First of all, it's important to know that I
13 received that on a Thursday or Friday. I really don't
14 remember which. I suspect Friday, but it was a
15 Thursday or a Friday. And it had to be turned in by
16 Monday. So we're under a very strict time limit here.
17 They offered a URL for a website, where you could go
18 cure your ballot. This was supposed to be a very big
19 deal, that we could cure the ballot -- ballot online.
20 I went to it. I filled out the -- everything you had
21 to fill out. And then there was a button. I don't
22 remember if the button said "next" or "submit" or what,
23 but I clicked the button. And I got the message, "Page
24 not found." So okay, that happens. So I did it again.
25 I did it two or three times, still got "page not

1 found." So I did the thing that those of us who have
2 been using computers for a long time, I turned off my
3 computer and just said, "Okay. Let's let it rest for a
4 little bit."

5 So I finally turned the computer back on,
6 went through the process. Didn't do any good. It
7 still said, "Page not found." I did it several times
8 that evening, because that -- again, because of that
9 deadline being the next Monday, you know, it was
10 important to me. So I did it several times that
11 evening, it never did work. So I gave them the benefit
12 of the doubt and said, "Okay. There's so many of us
13 who are doing this that it's just overloaded."

14 So the next morning, I -- bright and early in
15 the morning, I started it again and it still didn't
16 work, so by that time, I'm not trusting the Internet
17 anymore. And so I go to the post office to mail it,
18 and the post office says they can't guarantee it would
19 get there by Monday. So I end up -- and this is why I
20 think it was a Saturday, because if it with was a
21 Friday, I could have still -- and I'm supposing. I'm
22 just -- I don't have an absolute memory of this, but
23 logic says if it was on a Friday, I could -- could have
24 driven to the courthouse. Saturday, not so. And I
25 ended up going to FedEx and spending twelve fifty. I

1 spent \$12.50 to get my vote recorded.

2 Q. So the county advised you that you could cure
3 your ballot online, but that process was unsuccessful
4 for you?

5 A. Right.

6 Q. Is that correct?

7 And I believe you testified that someone from
8 the county said that the ballot had to be received by
9 the next Monday; is that correct?

10 A. It -- that was on part of the document or the
11 documentation.

12 Q. And was this -- do you recall whether -- what
13 form was the notification? Whether it was a letter or
14 an e-mail?

15 A. Well, I was eventually, sent a documentation
16 that I could have filled in and mailed in, but I
17 thought curing would be faster.

18 Q. The -- specifically for the comment that the
19 ballot needed to be received by the next Monday, do you
20 recall whether that was an e-mail or letter?

21 A. It was printed with the documentation.

22 Q. Okay. So -- okay. The primary was on March
23 1st, 2022. Do you know when you submitted your
24 replacement ballot?

25 A. I do not know a date. I just know that I

1 FedExed it. I believe it to be on a Saturday, but it
2 might have been a Friday. And I do not know what those
3 dates were, but they were the deadline that I was
4 given, the next Monday. I think from now on I'm going
5 to Xerox everything, every piece of paper I get.

6 (Laughter.) Sorry.

7 Q. Oh, sorry. I didn't mean to cut you off.

8 A. I was make -- I was making a smart comment,
9 so no, retract that comment.

10 Q. Would it be all right if I summarize your
11 testimony, and then you can tell me whether that's
12 right or whether you'd like to correct --

13 A. Yeah.

14 Q. -- what I said?

15 A. Go right ahead, and I'll let you know.

16 Q. So you were notified that your ballot, in the
17 March 1, 2022, primary was rejected because of ID
18 numbers. And that the replacement ballot had to be
19 received by the next Monday. You attempted to cure the
20 ballot online several times, but were unsuccessful.
21 And then on a date -- day of the week that you think
22 was Saturday, date unknown, you went to FedEx and you
23 paid \$12.50 to mail your replacement ballot in time by
24 Monday?

25 A. Yes.

Attachment 5

Isabel Longoria April 22, 2022 Deposition Excerpts

April 22, 2022

71

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNIÓN DEL PUEBLO)	
ENTERO, et al.,)	
)	Case No.
Plaintiffs,)	5:21-cv-844-XR
)	
VS.)	(Consolidated for
)	space)
GREGORY W. ABBOTT,)	
et al.,)	
Defendants.)	

VIDEO-RECORDED 30(b)(6) DEPOSITION OF ISABEL LONGORIA
April 22, 2022, 9:33 a.m.
Location: Reed Smith LLP
Houston, Texas
Volume 2 of 2 - Pages 71 - 131

Stenographic Reporter:
DENYCE M. SANDERS, TX CSR, RDR, CRR, CCR (LA)
dsanderscsr@gmail.com

JOB NO. 6130930

1 THE VIDEOGRAPHER: We are now on the
2 record. Today's date is April 22, 2022.
3 The time is 9:38 a.m. This is the
4 continuation deposition of Isabel
5 Longoria.

6 MR. BROUGHTON: Pass the witness.

7 E X A M I N A T I O N

8 BY MR. THOMPSON:

9 Q. Good morning, Ms. Longoria.

10 A. Good morning, Will.

11 Q. My name is Will Thompson, you may
12 remember from the other day. I work for the Office
13 of the Attorney General. Obviously you've been
14 deposed before. And we're in the middle of another
15 deposition, so I'm not going to re-go over the, kind
16 of, ground rules for a deposition that you already
17 know.

18 A. I understand.

19 Q. Do you kind of remember how this works?

20 A. Understood. Yes.

21 Q. Okay. And you understand that you're
22 still testifying under oath today?

23 A. Yes.

24 Q. And do you understand that you're
25 testifying on behalf of the office of the Harris

1 County Elections Administrator rather than in your
2 personal capacity?

3 A. Yes.

4 Q. So if I use a second person pronoun like
5 "you," will you understand that I'm referring to the
6 office of the Harris County Elections Administrator?

7 A. Yes.

8 Q. I wanted to ask a little about the
9 structure of the office.

10 A. Sure.

11 Q. There was some discussion on Wednesday
12 about election workers at polling places and who
13 they report to. Do you remember that?

14 A. Yes.

15 Q. Do election workers at polling places
16 ultimately report to the Harris County Election
17 Administrator's office?

18 A. Yes. And that we organize the elections
19 and provide direction, regardless of if those clerks
20 or judges are during the early voter or election day
21 period.

22 Q. So if, for example, an election worker
23 at a polling place was going to deny a request for
24 an ADA accommodation, but the Harris County Election
25 Administrator's office thought the request for an

1 accommodation should be granted, would the office be
2 able to kind of direct the worker to grant the
3 accommodation?

4 A. No, pending whether or not the
5 individual is an early voting clerk or an election
6 day clerk. Early voting clerks are essentially
7 direct extensions, right, of the early voting
8 clerk's office, the elections office, whereas
9 election day judges specifically are district judges
10 in their independent capacity.

11 So whether or not we advise them,
12 strongly recommend, I believe technically they are
13 the ones who are in charge of each voting location;
14 and they make ultimate decisions about voting,
15 voting practices, voter services, et cetera, at
16 those locations.

17 Q. Okay. So just to make sure I understand
18 properly, as to early voting, the election workers
19 at a polling place are subject to the direction of
20 the Harris County Election Administrator's office;
21 right?

22 A. Yes.

23 Q. But that's not true for election workers
24 at a polling place on election day?

25 A. Correct.

1 December or January -- and I can't remember in what
2 conversation this came up in the context with the
3 Secretary of State's office, so I apologize. That
4 the Secretary of State's office mentioned, I believe
5 it was, two election offices that they had come to
6 obtain -- by which manner, I do not know -- come to
7 obtain driver's license numbers and had uploaded
8 those driver's license numbers into the State's
9 voter file in an attempt to match up -- where there
10 were not driver's license numbers, to match those up
11 with the voters.

12 I had flagged it in that it had been
13 my understanding up to that point that only a voter
14 could update their voter information with numbers to
15 that. So it was interesting to election officials
16 to note that the Secretary of State had come into
17 possession of that information and uploaded it to
18 the voter file, perhaps without the knowledge of the
19 voters themselves.

20 Q. And you thought that that process
21 created some errors; right?

22 A. Yes.

23 Q. Did you raise your concerns about
24 potential errors with the Secretary of State's
25 office?

1 A. Yes.

2 Q. And did the Secretary of State's office
3 attempt to address your concerns?

4 A. I believe the remedy they provided is
5 that, voter by voter, if those issues came up, the
6 voter should then reach out through various methods
7 at their disposal to update or correct their voter
8 registration file.

9 Q. And do you know whether that process has
10 taken place at all?

11 A. It's a bit of a catch-22. So to update
12 your information with the Secretary of State's
13 online system, which was mandated because of Senate
14 Bill 1 as well -- I'm referring to the online mail
15 ballot tracker that also allows an individual to
16 update or confirm their information for the purposes
17 of curing a mail ballot, for example.

18 To access the State's version of
19 that, you have to include -- you have to use the
20 last four digits of your social security number and
21 your driver's license number, I believe, as well as
22 your name and maybe your birthday to even access
23 that portal.

24 That is the portal that the State
25 would direct you to, to fix your driver's license

1 number. So, for example, if you know your driver's
2 license number to be 1234, but the State had, for
3 whatever reason, perhaps uploaded another number of
4 someone with a similar name, and that number was
5 57 -- 5789, you would keep putting in "1234" to log
6 in to the system, but the system would never let you
7 log in because the system has you at "5789." And so
8 you would never be able to log in to the system to
9 either confirm or correct whatever the State had for
10 you. So that was supposed to be the State database
11 mandated by SB1 that people used.

12 It then created another task, right,
13 so you had other options, which was to come to our
14 office, where you could submit your driver's license
15 number through our database -- or not -- sorry. Not
16 through our database. Through a paper form --
17 letter or paper form application, voter reg
18 application, some kind of paper form to our office.
19 I believe that, then, allowed us to correct it on
20 our end. And I'll have to -- I can't remember the
21 details in this moment. I'm sure we can find
22 out what, then, was the specific process for the
23 State to decide whether or not the number they had
24 on file or the number provided by our office from
25 the voter was the correct number and how quickly

1 that was corrected.

2 Q. Okay. So there's a lot of information
3 there.

4 A. There's a lot.

5 Q. I'm going to go back through a little
6 bit of it --

7 A. Please do.

8 Q. -- to make sure I understand.

9 A. Yeah.

10 Q. So you were concerned that there were
11 potential errors in the database that meant some
12 voters had inaccurate driver's license numbers
13 saved; correct?

14 A. Yes.

15 Q. And you raised this concern with the
16 Secretary of State's office; right?

17 A. Yes.

18 Q. And one potential option for correcting
19 an error was for a voter to bring a form to one of
20 your offices to correct the driver's license number
21 in your system; correct?

22 A. Yes.

23 Q. And though you're not sure about the
24 details or how long it might take, we think for at
25 least some voters that would correct the errors in

Attachment 6

Rivelino Lopez

April 29, 2022 Deposition

Excerpts

Transcript of the Testimony of
The Office of the Dallas County Elections Administrator

Date:

April 29, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO,)(
ET AL.,)(
PLAINTIFFS,)(
VS.)(CIVIL ACTION
GREGORY W. ABBOTT, ET AL.,)(NO. SA-21-CV-00844-XR
DEFENDANTS.)(

VIDEOTAPED AND VIDEOCONFERENCED
ORAL DEPOSITION OF
RIVELINO LOPEZ, TACOMA PHILLIPS
AND MICHAEL SCARPELLO
APRIL 29, 2022

VIDEOTAPED AND VIDEOCONFERENCED ORAL DEPOSITION
OF RIVELINO LOPEZ, TACOMA PHILLIPS AND MICHAEL
SCARPELLO, produced as witnesses at the instance of the
Plaintiff LUPE, and duly sworn, was taken in the
above-styled and numbered cause on the 29th day of
April, 2022, from 10:47 a.m. to 8:02 p.m., before Holly
R. Swinford, CSR in and for the State of Texas, reported
by machine shorthand, at the Office of the Dallas
Elections Administrator, located at the Records
Building, 500 Elm Street, 7th Floor, Room 7Y11, in the
City of Dallas, County of Dallas, State of Texas,
pursuant to Notice, the Federal Rules, and the
provisions stated on the record or attached hereto.

1 Would you raise your right hand, please?

2 (Witness sworn by the court reporter.)

3 THE REPORTER: Thank you.

4 And statements -- you can put your hand
5 down --

6 THE WITNESS: Okay.

7 THE REPORTER: Statements by the court
8 reporter, according to Rule 30(b) have been waived by
9 all parties present.

10 Would Counsel please state any agreements
11 that haven't already been stated on the record, on the
12 record. Just according to the Federal Rules, correct?

13 MS. PERALES: We have no additional
14 agreements to state.

15 THE REPORTER: Thank you.

16 MS. PERALES: Are you ready, Mr. Lopez?

17 THE WITNESS: Oh, yeah.

18 REVELINO LOPEZ,
19 having being first duly sworn, testified as follows:

20 EXAMINATION

21 BY MS. PERALES:

22 Q. Can you please state your name for the record?

23 A. Rivelino Lopez.

24 Q. Thank you. My name is Nina Perales, and I
25 represent some of the Plaintiffs in this case. I'm with

1 Q. Mr. Lopez, I have handed you what has been --
2 or you -- you have received what has been marked Exhibit
3 1 for this deposition.

4 Do you recognize this document?

5 A. I think I have seen it. I haven't gone through
6 it; but I have seen it, yes.

7 Q. Okay. Do you understand that you're testifying
8 today in response to this Notice of Deposition?

9 A. Yes.

10 Q. Okay. And if you'll turn with me to Page 9, do
11 you see up at the top it's marked Exhibit A?

12 A. Yes.

13 Q. Okay. And then if you just look through it,
14 there are some definitions and then there are some
15 topics, some numbered topics that begin on Page 12, but
16 I will -- yeah. They begin on Page 12.

17 Do you see those there?

18 A. Yes.

19 Q. Okay.

20 MS. PERALES: Can we mark this Number 2?

21 (Deposition Exhibit Number 2 marked.)

22 (Document handed to the witness and Counsel.)

23 Q. And Mr. Lopez, you -- you have been handed what
24 has been marked Deposition Exhibit Number 2, and I'll
25 represent to you that this is a chart that we received

1 (indicating) from your attorneys at Dallas County.

2 A. Okay.

3 Q. And do you see --

4 A. Do I need to hold it up or -- so that --

5 Q. No.

6 A. -- everybody -- oh.

7 Q. It's okay --

8 A. Okay.

9 Q. -- but it's very kind of you to offer.

10 A. Okay.

11 Q. Do you see that your name is listed on here, on
12 the far right column (indicating) next to certain
13 topics?

14 A. Yes.

15 Q. Okay. And are you prepared to speak on those
16 topics that your name is associated with?

17 A. Yes.

18 Q. Now, do you understand that because you are
19 designated on certain topics, the answers that you give
20 are on behalf of the Dallas County Elections Department?

21 A. Yes.

22 Q. Tell me your current job title.

23 A. Voter Registration Manager.

24 Q. Okay. How long have you held that position?

25 A. 11 years.

1 Q. And what was your job before you became the
2 Voter Registration Manager?

3 A. I worked with the City of Dallas.

4 Q. And what were you doing there?

5 A. I was a supervisor at one of the local rec
6 centers.

7 Q. And where was that rec center?

8 A. At Harry Stone Recreation Center.

9 Q. And what neighborhood is that in?

10 A. Kind of far East Dallas.

11 Q. Okay. And so you went from that position with
12 the City of Dallas to become the Voter Registration
13 Manager --

14 A. Uh-huh.

15 Q. -- for Dallas --

16 A. Yes.

17 Q. -- County?

18 A. Yes.

19 Q. Okay. Are you from Dallas originally?

20 A. Born and raised, yes.

21 Q. Where did you go to high school?

22 A. I lived in Houston about five years, so I did
23 my whole high school career down in Houston at Clear
24 Creek High School.

25 Q. Okay. Clear Creek.

1 A. And then I came back to Dallas.

2 Q. Then you came back here?

3 A. Uh-huh.

4 Q. Did you do any schooling after high school?

5 A. Yes. I went to Mountain View College for a few
6 years and then I transferred over to Dallas Baptist
7 University and that's where I graduated.

8 Q. Okay. And you got a bachelor's degree?

9 A. Yes.

10 Q. Have you done any schooling after that?

11 A. No.

12 Q. So, with respect to your current position as
13 the Voter Registration Manager, what are your duties?

14 A. I oversee the voter registration area, and we
15 maintain voter lists, add and update voter information,
16 whether they're changing their address, changing their
17 name. We work with the Secretary of State, uploading
18 files, downloading files, sending voter history over to
19 the Secretary of State, working on mapping, you know,
20 precincts and -- and stuff like that. So we just --
21 just maintain all the voters, 1.4 million voters in
22 Dallas County.

23 Q. That's a lot of voters.

24 A. Oh, yeah.

25 Q. Earlier I was telling you that the Bexar County

1 Elections Administrator refers to the big counties as
2 "the big boys." Have you heard that before?

3 A. Yes.

4 Q. Yeah. Dallas County is one of the big boys,
5 isn't it?

6 A. Oh, yeah.

7 Q. Yeah. Are you familiar with the TEAM system?

8 A. Yes.

9 Q. Is Dallas County an online county or an offline
10 county?

11 A. Offline.

12 Q. Do you know why Dallas County is an offline
13 county?

14 A. I think the larger counties, it would be too
15 much for the State system to handle. So I guess about
16 half the state, especially the larger ones, have their
17 own VR database.

18 Q. Okay. I'm going to ask these questions just --
19 not because I'm going to go into them deeply with you.
20 I just want to make sure I understand what you know --

21 A. Okay.

22 Q. -- about your relationship with the TEAM
23 system. And like I said, I'm not going to go deep, but
24 I just want to make sure --

25 A. Okay.

1 Q. -- I understand.

2 Do you know how many voters in Dallas County
3 you do not have either a driver's license number or the
4 last four of the Social?

5 A. It's -- I know 99.46 percent do have a driver's
6 license or a Social on record. So about a half a
7 percent of our -- our registered voters. I guess it
8 would be close to 70,000.

9 Q. Do you know how many people only have one
10 number and not both numbers?

11 A. 97.13 percent have at least one.

12 Q. Have at least one?

13 A. Uh-huh.

14 Q. But do you -- can you tell me how many lack
15 both numbers?

16 A. Probably close to 70,000.

17 Q. Okay. Yes. I asked that question --

18 A. Yeah.

19 Q. -- wrong. Let me try again.

20 How many of your registered voters only have
21 one number and not a second number?

22 A. That would be -- I want to say -- well, because
23 97 percent of them have either a Texas Driver's License
24 or --

25 Q. Uh-huh.

1 A. -- an ID.

2 Q. Uh-huh.

3 A. So, yeah, I'll have to look at that. I don't
4 know that number off the top of my head.

5 Q. Okay. And so what you -- just so you
6 understand what I'm getting at, if you have a driver's
7 license number for me --

8 A. Uh-huh.

9 Q. -- but you don't have my Social --

10 A. Right.

11 Q. -- or you have my Social, but you don't have my
12 driver's license.

13 So people for whom you have one number filled
14 in, but you don't have a second number for them, you
15 would have to go back and try to see how many that were?

16 A. Uh-huh.

17 Q. Okay.

18 A. Yes.

19 Q. Okay. And now with respect to TEAM, do you
20 have knowledge of whether you received an update from
21 TEAM -- "you," meaning Dallas County -- received an
22 update for TEAM sometime around December or January that
23 was from the Secretary of State that went into your
24 system that had additional ID numbers for your
25 registered voters?

Attachment 7

Rachelle Obakozuwa March 21, 2023 Deposition Excerpts

JANE NELSON, et al.,
Defendants,

1 MI FAMILIA VOTA, et §
al., §
2 Plaintiffs, §
§
3 v. § Case No. 5:21-cv-0920-XR
§
4 GREG ABBOTT, et al., §
Defendants. §
5
6
7
8

9 ORAL AND VIDEOTAPED DEPOSITION OF

10 RACHELLE OBAKOJUWA

11 MARCH 21, 2023
12
13
14

15 ORAL AND VIDEOTAPED DEPOSITION OF RACHELLE

16 OBAKOJUWA, produced as a witness at the instance of the
17 Defendants and duly sworn, was taken in the above styled
18 and numbered cause on Tuesday, March 21, 2023, from
19 3:51 p.m. to 6:44 p.m., before DONNA QUALLS, Notary
20 Public in and for the State of Texas, reported by
21 computerized stenotype machine, at the offices of Harris
22 County Attorney's Office, 1019 Congress Street, 15th
23 Floor, Houston, Texas, pursuant to the Federal Rules of
24 Civil Procedure, and any provisions stated on the record
25 or attached hereto.

1 Q. And if you do answer a question, I'm going to
2 assume that you understood the question; is that fair?

3 A. Yes.

4 Q. If you need a break at any time, that's fine.
5 Please just let me know. My only request is that you
6 answer any pending question before we take a break.
7 Okay?

8 A. Okay.

9 Q. Also, if you hear an objection from your
10 counsel, that is typically for the court to decide at a
11 later date. I therefor ask that you go ahead and answer
12 the question unless you are instructed not to answer.
13 Okay?

14 A. Okay.

15 Q. Now, I'm obliged to ask the following
16 questions: Have you consumed any alcohol today?

17 A. No.

18 Q. Have you consumed any drugs today?

19 A. No.

20 Q. Are you aware of anything that would affect
21 your ability to testify truthfully and accurately today?

22 A. No.

23 Q. You did not bring any documents with you today,
24 correct?

25 A. Correct.

1 Q. Now, I'm going to ask that you take out
2 Exhibit 1. It should be on the pile that you have.

3 A. Found it.

4 Q. Excellent. And if you can turn the page to the
5 title. It says "State Defendants' Amended Notice of
6 Intent to take Oral and Videotaped Deposition of the
7 Office of the Harris County Elections Administrator,
8 Pursuant to Rule 30(b)(6)."

9 Did I read that correctly?

10 A. Yes.

11 Q. Have you seen this document before?

12 A. Yes.

13 Q. Do you understand that you are here today
14 pursuant to this notice?

15 A. Yes.

16 Q. Do you understand that the office of the Harris
17 County Elections Administrator has designated you to
18 provide testimony on its behalf?

19 A. Yes.

20 Q. And do understand that your answers here today
21 are binding on the organization?

22 A. Yes.

23 Q. Your counsel has informed me that you are
24 designated on Topics 1, 2, 3, 7, 11, 12, 13, 14, 15, 18,
25 19, 21, 22 in part, and 27. I recognize that many of

1 these topics are more of a spectrum than discreet
2 categories. So if at any time my question veers into an
3 area that you think another designee had better
4 expertise or you are unable to answer, please just let
5 me know.

6 A. Okay.

7 Q. Are you prepared to testify on this list of
8 topics?

9 A. Yes.

10 Q. Did you meet with anybody in preparation for
11 today's deposition?

12 A. My attorneys.

13 Q. And how frequently did you meet with your
14 attorneys? How many times?

15 A. Four, I believe.

16 Q. And how long did these meetings last?

17 A. They varied from 30 minutes to two hours.

18 Q. Did you speak with anybody else in preparation
19 for the today's deposition outside of your attorneys?

20 A. The other persons in -- who was being deposed
21 and as well as Clifford Tatum.

22 Q. And what were the subjects -- subject of your
23 conversations with Mr. Tatum, like the general topics?

24 A. The topics for examination.

25 Q. Did you review any documents in preparation for

1 questions at this time, and I'm passing the witness but
2 reserve redirect.

3 EXAMINATION

4 BY MS. PAIKOWSKY:

5 Q. Welcome. Thank you for testifying this
6 afternoon. My name is Dana Paikowsky, and I'm with the
7 United States. So I'm going to start out maybe circling
8 back on some of these questions about voter education
9 related to the identification provision of Senate
10 Bill 1.

11 Did your office produce an insert to
12 include with the carrier envelope to explain the ID
13 provision during the November 2022 general election?

14 A. Not a separate one. We included the one the
15 state provided. And that is my understanding. By the
16 way, I'm not -- I don't think I was set to -- to testify
17 on that topic.

18 Q. Okay.

19 A. Ballot by mail.

20 Q. Would you know of who might be able to testify
21 about the development of a ballot insert?

22 A. The development of it would be our
23 communications person, Nadia. I have seen a lot of the
24 flyers. I'm just not aware of a particular one that was
25 put in the ballot by mail.

1 Q. You described some voter education efforts that
2 your office engaged in around Senate Bill 1's
3 identification provision. Why did you undertake those
4 efforts?

5 A. There were voter questions and confusion about
6 why their ballots weren't being counted -- or why their
7 ballots were being rejected. I apologize. And -- and
8 the -- there were changes that SB1 had that we knew
9 would affect every voter who was voting by mail.

10 Q. And do you anticipate needing to continue to
11 do -- maintain these efforts in future elections?

12 A. Yes.

13 Q. Earlier you testified that SB1 necessitated an
14 increase in temporary and full-time staff. Why is that?

15 A. There are a lot of implications for SB1. With
16 the rejection of mail ballots, there has to be more
17 communication to voters. So it takes more bodies to
18 create that communication to send items to the voters,
19 and there's a higher rate of transaction. So it
20 requires more workers.

21 Additionally, SB1 affected some of our
22 staffing for election workers. And so that was one of
23 the reasons recruitment efforts had to increase. So we
24 had to have more staff for that. And there are more
25 procedural-type questions and calls that we get. So our

1 call center and help line had to increase staff as well.

2 Q. Were there increased needs in -- for resources
3 dedicated to voter outreach and education related to
4 implementing Senate Bill 1's identification provision?

5 A. And are we specifically speaking about the
6 period for November or prior to March?

7 Q. Let's talk about just November for the moment.

8 A. We increased the quantity of voter outreach
9 persons to go to it -- these community events to
10 communicate about these -- the changes to SB1. Yes, for
11 both elections.

12 Q. And do you believe those increased needs are
13 going to continue on in future elections as well?

14 A. Yes.

15 Q. Why is that?

16 A. There's still confusion and there's still --
17 there are still issues with person's ballots, mail
18 ballots being rejected.

19 Q. Did you ever have any communications with the
20 secretary of state's office about what kind of voter
21 education efforts your county should undertake related
22 to SB1's identification provision?

23 A. Our communications team reached out to
24 secretary of state's office about how to engage with
25 voters without it appearing as soliciting which would be

1 A. I can't think of any. For voter education,
2 it's very broad. So I don't know that the little we've
3 discussed is the whole realm of that. But if you're
4 looping all voter education in one, then I cannot think
5 of anything else.

6 Q. So earlier -- and -- and I know you had spoken
7 to counsel about the range of voter education efforts
8 you had engaged in related to the identification
9 provision which included making videos, doing community
10 meetings. Is there anything else that I'm missing in
11 terms of buckets of efforts or -- or -- or types of
12 outreach that you engaged in?

13 A. In the Exhibit 4, there's reference to an
14 organization -- I think it's called KGB that we worked
15 with to do a lot of outreach for us. And that was --
16 that outreach was very broad. It touched every type of
17 communication method that we know of. So that would be
18 the only thing that I would add that there are many
19 things that they did for us to communicate.

20 Q. Could you provide a list of examples of the
21 kinds of communications that they engaged in? It
22 doesn't have to be exhaustive but just anything we
23 haven't discussed.

24 A. I believe I've -- and I believe I've mentioned
25 them all, but I know there was radio, television.

1 Billboards, I think was one that I didn't state. Social
2 media, different platforms there, other online
3 advertising -- not advertising but other online
4 platforms. And that's really all that I can recall at
5 this time, but I believe the majority of them are listed
6 in Exhibit 4.

7 Q. Do you believe that there's anything your
8 office could have done beyond what it did in the 2022
9 general election to bring down rejection rates further?

10 MS. HUNKER: Objection; form.

11 A. No.

12 Q. (BY MS. PAIKOWSKY) Do you know approximately
13 how much the contract with KGB cost?

14 A. No. Our office has those figures. I just
15 didn't look.

16 Q. Thanks very much. So we have a number of
17 questions about the team database. Is that something
18 you work with at all?

19 A. No.

20 Q. Okay. One last question. Oh, I'm so sorry.
21 I'm just drowning in papers here. I want to pull out
22 exhibit -- here we go -- Exhibit 16.

23 Do you have that in front of you?

24 A. I believe this is it, but it could be a 14.

25 Q. I think that's right. So it reads at the top

1 "Harris County Elections Administrator Clifford Tatum's
2 Supplemental Responses to State Defendants' Second Set
3 of Interrogatories."

4 A. Yes.

5 Q. And at the top it says Interrogatory No. --
6 No. 4: "Please identify and describe with specificity
7 Harris County's final rejection rate of timely received
8 ballots by mail, expressed as a percentage of all timely
9 received ballots by mail and rounded to two decimal
10 places, for the following elections."

11 And then it provides rejection rates from
12 the 2012, 2014, 2016, 2018, 2020, and 2022 elections.

13 Do you see that?

14 A. Yes.

15 Q. Do you -- sorry. Excuse me. During these past
16 elections, did your office devote resources to
17 preventing ballot rejections for ballot by mail through
18 voter education and outreach?

19 A. Yes.

20 Q. Was it the same or less -- or how was it in
21 comparison -- sorry -- withdrawn.

22 Were the amount of resources that your
23 office dedicated to voter education in 2022 different
24 than in any of these past elections?

25 MS. HUNKER: Objection; form.

1 MS. PAIKOWSKY: Yeah, let me withdraw that
2 and restate it. Thank you.

3 Q. (BY MS. PAIKOWSKY) During the November 2022
4 election, did the amount of resources that your office
5 devoted to voter education related to preventing ballot
6 rejections differ as compared to these past elections?

7 A. Yes.

8 Q. In what way?

9 A. We did a lot more voter outreach than most of
10 these other elections. The 2020 election, we did a lot
11 of other outreach but more outreach in 2022,
12 specifically, with ballot by mail.

13 Q. And what was the kind of outreach that your
14 office done -- did in 2020?

15 A. It was more -- more broad to engage voters.

16 Q. But it was not related to preventing ballot
17 rejections?

18 A. Correct.

19 Q. So earlier you described your voter education
20 campaign as successful. Can you describe what that
21 means to you?

22 A. Yes. We devoted funds and a lot of effort to
23 attempt to reach voters on every platform that would let
24 us so that voters would be aware of how to cast a
25 ballot, a mail ballot, that would be counted.

1 Q. So why do you think the rejection rate was
2 higher in November 2022 than in the past elections shown
3 here?

4 MS. HUNKER: Objection; form.

5 A. SB1 has brought challenges to mail voting that
6 were not part of any of the other elections --
7 elections.

8 MS. PAIKOWSKY: I think I am ready to pass
9 the witness.

10 EXAMINATION

11 BY MS. HOLMES:

12 Q. Good afternoon. My name is Jennifer Holmes,
13 and I represent the -- and now I have a microphone.

14 Good afternoon. My name is Jennifer
15 Holmes, and I represent the HAUL plaintiffs in this
16 case. Thank you for bearing with us today.

17 You testified earlier that your office had
18 engaged in increased efforts to recruit election
19 workers; is that correct?

20 A. Yes.

21 Q. And I believe you also testified that there was
22 some relation between SB1 and difficulty in retaining
23 election workers; is that correct?

24 A. Yes.

25 Q. And what is the relationship between SB1 and

1 the difficulty retaining election workers?

2 A. After SB1, we received a lot of phone calls
3 from election workers that, particularly judges, that
4 they were concerned at the way that laws were being
5 written that make it more challenging for them where
6 they would be concerned that they could do something
7 wrong. And so they -- we had a lot more declines,
8 people declining to work for those reasons.

9 Q. Okay. And specifically for the November 2022
10 election, can you quantify the number of people that
11 declined to work?

12 A. There were almost 600 people that declined to
13 work, 600 judges that declined to work Election Day in
14 November 2022.

15 Q. And do you know how many of those election
16 judges, those 600, declined and cited reasons as part of
17 the reason SB1?

18 A. I couldn't quantify that.

19 Q. Have any election judges who declined to work
20 or are concerned about working communicated what
21 specifically about SB1 raises concerns?

22 A. That poll watchers at the voting location can
23 be a challenge to work with and that they don't know
24 when they are doing something that would get them in
25 trouble with a poll watcher.

Attachment 8

Alice Penrod

**April 27, 2023 Deposition
Excerpts**

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 SAN ANTONIO DIVISION

LA UNIÓN DEL PUEBLO §
 ENTERO, ET AL., § CASE NO. 5:21-CV-844-XR
 PLAINTIFFS, § [LEAD CASE]

V. §
 §
 GREGORY W. ABBOTT, ET AL., §
 DEFENDANTS. §

OCA-GREATER HOUSTON, ET §
 AL., § CASE NO. 1:21-CV-780-XR
 PLAINTIFFS, §

V. §
 §
 JANE NELSON, ET AL., §
 DEFENDANTS. §

HOUSTON AREA URBAN LEAGUE, §
 ET AL., § CASE NO. 5:21-CV-848-XR
 PLAINTIFFS, §

V. §
 §
 GREGORY WAYNE ABBOTT, ET §
 AL., §
 DEFENDANTS. §

LULAC TEXAS, ET AL., §
 PLAINTIFFS, § CASE NO. 1:21-CV-0786-XR

V. §
 §
 JANE NELSON, ET AL., §
 DEFENDANTS. §

MI FAMILIA VOTA, ET AL., §
 PLAINTIFFS, § CASE NO. 5:21-CV-0920-XR

V. §
 §
 GREG ABBOTT, ET AL., §
 DEFENDANTS. §

1 UNITED STATES OF AMERICA, §
 PLAINTIFF, § CASE NO. 5:21-CV-1085-XR
 2 §
 V. §
 3 §
 THE STATE OF TEXAS, ET §
 4 AL., §
 DEFENDANTS §

5

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8

ORAL AND VIDEOTAPED DEPOSITION OF

9

ALICE PENROD

10

11

APRIL 27, 2023

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ORAL AND VIDEOTAPED DEPOSITION OF ALICE PENROD,
 PRODUCED AS A WITNESS AT THE INSTANCE OF THE STATE'S
 DEFENDANTS, WAS TAKEN IN THE ABOVE-STYLED AND -NUMBERED
 CAUSE ON THE 27TH DAY OF APRIL, 2023, FROM 10:03 A.M. TO
 12:24 P.M., BEFORE KAREN A. GONZALEZ, COMMISSIONED
 NOTARY, IN AND FOR THE STATE OF TEXAS, REPORTED REMOTELY
 BY MACHINE SHORTHAND, REMOTELY FROM DALLAS COUNTY,
 TEXAS, PURSUANT TO THE TEXAS RULES OF CIVIL PROCEDURE,
 THE TEXAS SUPREME COURT EMERGENCY ORDER REGARDING THE
 COVID-19 STATE OF DISASTER AND THE PROVISIONS STATED ON
 THE RECORD OR ATTACHED HERETO.

1 Q. AND HAVE YOU CONSUMED ANY ALCOHOL OR DRUGS TODAY
2 THAT WOULD EFFECT YOUR TESTIMONY?

3 A. NO.

4 Q. OKAY. IN PREPARING FOR THE DEPOSITION TODAY DID
5 YOU REVIEW ANY DOCUMENTS?

6 MR. BARON: AND I'LL INSTRUCT THE WITNESS TO
7 ANSWER --

8 A. JUST I LOOKED AT --

9 MR. BARON: HOLD ON ONE SECOND. I'LL
10 INSTRUCT THE WITNESS TO ANSWER TO THE EXTENT IT'S NOT IN
11 REFERENCE TO OUR COMMUNICATIONS.

12 GO AHEAD YOU CAN ANSWER.

13 A. NO. I GUESS, I DON'T KNOW.

14 Q. (BY MR. BERG) WAS YOUR ANSWER THAT, NO, YOU DID
15 NOT CONSULT ANY DOCUMENT OR NO YOU CANNOT RECALL IF YOU
16 LOOKED AT ANY DOCUMENTS? MS. PENROD --

17 A. I -- I DON'T KNOW HOW TO ANSWER THAT.

18 Q. IS YOUR ANSWER THAT YOU CANNOT ANSWER WITHOUT
19 REVEALING ATTORNEY/CLIENT COMMUNICATION?

20 A. YES.

21 Q. OKAY. WITHOUT REVEALING ANY ATTORNEY/CLIENT
22 COMMUNICATION, DID YOU SPEAK WITH AN ATTORNEY PRIOR TO
23 THE DEPOSITION?

24 A. YES.

25 Q. AND WHO DID YOU MEET WITH?

1 A. NOAH BARON.

2 Q. AND HOW LONG DID YOU MEET WITH NOAH?

3 A. WE MET ON THREE DIFFERENT OCCASIONS.

4 Q. AND ABOUT HOW MUCH TIME IN TOTAL DID YOU SPEND
5 PREPARING?

6 A. ABOUT THREE HOURS.

7 Q. OKAY.

8 DO YOU HAVE ANY PREPARED NOTES WITH YOU TODAY
9 THAT YOU INTEND TO CONSULT DURING YOUR DEPOSITION?

10 A. NO.

11 Q. OKAY. HAVE YOU EVER BEEN DEPOSED BEFORE?

12 A. NO.

13 Q. HAVE YOU EVER TESTIFIED IN COURT BEFORE?

14 A. NO.

15 Q. HAVE YOU EVER TESTIFIED IN ANOTHER PROCEEDING
16 LIKE BEFORE THE LEGISLATOR?

17 A. NO.

18 Q. HAVE YOU EVER BEEN INVOLVED IN A LAWSUIT AS A
19 PARTY?

20 A. NO.

21 Q. MS. PENROD, WHERE DID YOU GO TO SCHOOL?

22 A. FOR ELEMENTARY OR ALL THE SCHOOLS OR -- I DON'T
23 KNOW -- CAN YOU CLARIFY THE QUESTION.

24 Q. YEAH. WE CAN START AT COLLEGE, IF YOU ATTENDED?

25 A. OKAY. I ATTEND TEXAS TECH UNIVERSITY IN LUBBOCK,

1 TEXAS FOR TWO YEARS. AND THEN I GRADUATED FROM A&M

2 CORPUS CHRISTI.

3 Q. AND WAS THAT FOR A MASTER'S DEGREE OR --

4 A. WELL, FOR A BACHELOR'S OF SCIENCE IN EDUCATION.

5 Q. IN EDUCATION.

6 DID YOU TAKE ANY GRADUATE WORK OR SPECIALTY -- DO

7 SPECIALTY TRAINING?

8 A. I TOOK A YEAR AND A HALF TOWARD MY READING

9 MASTERS BUT I DIDN'T FINISH IT.

10 Q. OKAY. MS. PENROD, ARE YOU MARRIED?

11 A. YES.

12 Q. WHO IS YOUR SPOUSE?

13 A. ROGER SCOTT PENROD.

14 Q. AND DO YOU LIVE TOGETHER?

15 A. YES.

16 Q. HAVE YOU EVER RUN FOR PUBLIC OFFICE?

17 A. NO.

18 Q. HAVE YOU EVER PARTICIPATED IN A CAMPAIGN FOR A

19 PUBLIC OFFICE EITHER AS A PAID EMPLOYEE OR AS A

20 VOLUNTEER?

21 A. NO.

22 Q. AND ARE YOU A MEMBER OF AFT, THAT'S THE AMERICAN

23 FEDERATION OF TEACHERS?

24 A. YES.

25 Q. WHAT DO YOU UNDERSTAND THIS CASE TO BE ABOUT?

1 A. THE DIFFICULTY THAT SB 1 HAS CREATED IN ACCESS TO
2 EASY VOTING IN THE STATE OF TEXAS.

3 Q. AND YOU UNDERSTAND THAT YOU ARE DISCLOSED AS A
4 POTENTIAL WITNESS?

5 A. YES.

6 Q. DO YOU KNOW WHY YOU WERE DISCLOSED AS A POTENTIAL
7 WITNESS, WITHOUT REVEALING ATTORNEY/CLIENT
8 COMMUNICATION?

9 A. YES, I DO.

10 Q. AND WHY IS THAT?

11 A. I HAD DIFFICULTY VOTING WITH MY MAIL-IN BALLOT IN
12 THE 2022 ELECTION -- PRIMARY ELECTION.

13 Q. AND WAS THAT THE MARCH 1ST, 2022, PRIMARY
14 ELECTION?

15 A. I'M NOT SURE THAT THAT WAS IN MARCH, BUT IT WAS
16 IN 2022, THE PRIMARY.

17 Q. OKAY --

18 A. AND IT WAS IN THE SPRING.

19 Q. IN THE SPRING, OKAY. WE'LL GET TO THAT.

20 FIRST, I WOULD LIKE TO INTRODUCE EXHIBIT A, I
21 WILL -- THIS IS A BIT FUN ON ZOOM. I'M GOING TO PUT A
22 DOCUMENT INTO THE CHAT FOR YOU. SO IF YOU JUST GIVE ME
23 ONE SECOND.

24 WOULD YOU PLEASE OPEN THE DOCUMENT THAT I JUST
25 PUT INTO THE CHAT, MS. PENROD.

1 (DEFENDANT'S EXHIBIT A MARKED.)

2 A. I DON'T KNOW WHAT IT'S DOING, IT'S WANTING TO
3 SAVE IT. I DON'T KNOW HOW TO OPEN IT.

4 MR. BARON: YOU CAN GO AHEAD AND SAVE IT.
5 AND THEN IT SHOULD OPEN.

6 THE WITNESS: IT WOULD HELP, RIGHT?

7 MR. BERG: SOME TECHNOLOGY MAKES OUR LIVES
8 EASIER THAN OTHERS.

9 THE WITNESS: OKAY. I THINK I OPENED IT.

10 Q. (BY MR. BERG) OKAY. IT SHOULD SAY, "LULAC
11 PLAINTIFF'S SEVENTH SUPPLEMENTAL RULE INITIAL
12 DISCLOSURES," THAT'S RULE 26(A)(1)?

13 A. YES.

14 Q. OKAY. IF YOU'RE ABLE TO SCROLL TO PAGE 2
15 NUMBER 1 SAYS, "MS. ALICE PENROD", DO YOU SEE IT?

16 A. YES. I SEE IT.

17 Q. AND I'M READING FROM IT NOW. "MS. PENROD IS A
18 MEMBER OF AFT AND WILL LIKELY HAVE DISCOVERABLE
19 INFORMATION REGARDING THE INJURIES SHE SUFFERED BECAUSE
20 OF SB 1."

21 DID I READ THAT CORRECTLY?

22 A. HOLD ON 'CAUSE I MAY BE LOOKING AT SOMETHING
23 DIFFERENTLY THAN YOU ARE. OKAY, PAGE 1 -- PAGE 2 FOR
24 ME?

25 Q. PAGE 2.

1 A. YES.

2 Q. -- IS THAT CORRECT?

3 A. YES. I MEAN, WE -- YOU KNOW WE HAVE THE
4 EXPERIENCE OF THE MAIL-IN BALLOT THAT ALMOST DIDN'T
5 HAPPEN. YOU KNOW, I MEAN IT'S LIKE, I WANTED TO MAKE
6 SURE MY VOTE COUNTED, SHE WANTED TO MAKE SURE HER VOTE
7 COUNTED. EVEN THOUGH HER MAIL-IN BALLOT WORKED JUST
8 FINE, SHE WANTED TO MAKE SURE THAT HER VOTE COUNTED.
9 SO, I MEAN, I WOULD HAVE JUST DONE A MAIL-IN BALLOT FOR
10 HER AGAIN, BUT SHE WAS INSISTENT, SHE WANTED TO GO TO
11 THE POLLS SO...

12 WE JUST --

13 Q. SHE SOUNDS FUN?

14 A. SHE IS. SHE'S A LOT OF FUN.

15 Q. SO I THINK I KNOW HOW YOUR MOTHER WOULD ANSWER.
16 BUT FOR YOU, IF YOU COULDN'T VOTE ABSENTEE, WOULD YOU
17 STILL VOTE?

18 A. OH, DEFINITELY. I WOULD HAVE PUT MY MASK ON AND
19 GONE AND VOTED, YOU KNOW, WHATEVER.

20 Q. SINCE YOU JUST STARTED VOTING BY MAIL IN 2022, I
21 IMAGINE YOU'VE VOTED IN-PERSON MANY MORE TIMES THAN YOU
22 VOTED BY MAIL; IS THAT CORRECT?

23 A. THAT'S CORRECT.

24 Q. HAVE YOU EVER HAD ANY TROUBLE VOTING IN-PERSON?

25 A. NO.

1 MR. BARON: OBJECT TO FORM.

2 Q. (BY MR. BERG) AND YOU HAD PREVIOUSLY TESTIFIED
3 THAT YOU WERE CONCERNED THAT SB 1 WOULD MAKE IN-PERSON
4 VOTING MORE DIFFICULT; IS THAT CORRECT?

5 A. I THINK THAT IT DOES.

6 Q. UNDERSTOOD.

7 I WAS JUST CLARIFYING -- I WAS ASKING WHETHER YOU
8 HAD PREVIOUSLY TESTIFIED THAT GOING INTO 2022 YOU WERE
9 CONCERNED THAT SB 1 WOULD MAKE IN-PERSON VOTING MORE
10 CHALLENGING, OR MORE DIFFICULT?

11 MR. BARON: OBJECT TO FORM. ASKED AND
12 ANSWERED.

13 MR. BERG: IT WAS A CONVOLUTED QUESTION. I
14 CAN TRY TO REPHRASE IT, IF THAT WILL HELP.

15 Q. (BY MR. BERG) BEFORE YOU HAD VOTED IN 2022, YOU
16 WERE CONCERNED THAT SB 1 WOULD MAKE IN-PERSON VOTING
17 MORE DIFFICULT; IS THAT CORRECT?

18 MR. BARON: SAME OBJECTION.

19 YOU CAN ANSWER.

20 A. I'M THINKING. LET ME -- MAY I CLARIFY?

21 Q. (BY MR. BERG) OF COURSE.

22 A. YOU'RE ASKING IF THE REASON I VOTED BY MAIL WAS
23 BECAUSE I THOUGHT SB 1 WOULD MAKE IT -- WAS MAKING IT
24 MORE DIFFICULT?

25 Q. NO. MUCH MORE SIMPLE. I'M JUST ASKING WHETHER

1 GOING INTO 2022 YOU WERE CONCERNED THAT SB 1 WOULD MAKE
2 VOTING IN-PERSON MORE DIFFICULT?

3 A. YES.

4 MR. BARON: SAME OBJECTIONS.

5 Q. (BY MR. BERG) OKAY. WHEN YOU VOTED IN-PERSON,
6 IN THE 2022 GENERAL ELECTION WITH YOUR HUSBAND AND
7 MOTHER, BESIDES THE MAIL BALLOT ISSUE, WAS IT MORE
8 DIFFICULT?

9 A. IT WAS MORE DIFFICULT IN THE SENSE THAT WE DID
10 NOT HAVE THE -- WE DIDN'T FEEL WE HAD THE LUXURY OF JUST
11 DOING IT BY MAIL. WE DIDN'T FEEL CONFIDENT THAT WE
12 WOULDN'T RUN INTO THE SAME ISSUES OF OUR BALLOT BEING
13 REJECTED.

14 SO, YOU KNOW, WE HAD TO PLAN AHEAD, MAKE SURE WE
15 GOT UP, YOU KNOW, EXTRA EARLY SO WE GET THERE WHEN THE
16 POLLS OPENED. YOU KNOW, MOM HAD TO GET READY AND IT'S
17 JUST -- IT WAS MORE DIFFICULT TO GET HER OUT AND MAKE
18 SURE SHE WAS ABLE TO VOTE. YOU KNOW, WE -- SHE HAD HER
19 CANE WITH HER, IT WAS RAINING, YOU KNOW. IT JUST -- IT
20 WAS -- THE LINE WASN'T TOO LONG, I MEAN, WE GOT THERE
21 EARLY ENOUGH THE LINE WASN'T TOO LONG. BUT, YOU KNOW,
22 STILL SHE HAD TO STAND THERE IN THE RAIN AND -- UNDER AN
23 UMBRELLA AND YOU KNOW.

24 THEN GO IN AND BE PULLED TO THE SIDE, BECAUSE WE
25 DIDN'T KNOW TO BRING IN OUR MAIL-IN BALLOTS THAT WE HAD

1 DECIDED NOT TO FILL OUT. SO, I MEAN, ULTIMATELY WE DID
2 ALL GET TO VOTE, AND IT ALL COUNTED, BUT IT SHOULDN'T --
3 WE SHOULDN'T HAVE TO RUN THROUGH ALL THOSE HOOPS JUST TO
4 VOTE, YOU KNOW. IF SHE'S ELIGIBLE AT HER AGE TO VOTE BY
5 MAIL, SHE SHOULD FEEL VERY COMFORTABLE DOING THAT AND
6 SHE DID NOT. AND WE -- I DID NOT. SO AFTER MY
7 EXPERIENCE. SO, YOU KNOW, ONE DAY I WILL BE IN HER
8 POSITION AND I DON'T -- I MEAN, YOU KNOW, MY SON LIVES
9 IN COLORADO, WHO'S GOING TO TAKE ME TO THE POLLS, I
10 DON'T KNOW. I SHOULD BE ABLE TO VOTE BY MAIL EASILY,
11 AND I DON'T FEEL COMFORTABLE DOING THAT RIGHT NOW.

12 Q. I BELIEVE YOU TESTIFIED EARLIER THAT YOU WOULD
13 HAVE BEEN FINE VOTING BY MAIL IN THE GENERAL ELECTION,
14 BUT IT WAS YOUR MOTHER WHO INSISTED THAT YOU VOTE
15 IN-PERSON; IS THAT CORRECT?

16 A. NO.

17 Q. NO. OKAY.

18 A. I DID NOT FEEL COMFORTABLE VOTING BY MAIL IN THE
19 GENERAL ELECTION, SO I WAS GOING TO GO VOTE IN-PERSON
20 MYSELF. MY HUSBAND MADE THAT DECISION, HE WAS GOING TO
21 GO VOTE IN-PERSON HIMSELF. AND THEN MY MOTHER SAID,
22 "WELL, I'M GOING TO VOTE IN-PERSON TOO," SO WE ALL WENT.

23 Q. THANK YOU FOR CLARIFYING.

24 HAVE YOU EVER WORKED AS A POLL WORKER?

25 A. NO.

1 Q. SO TODAY WE'VE TALKED ABOUT SB 1, AND SOME OF
2 THOSE VOTE-BY-MAIL PROVISIONS. ARE THERE ANY OTHER
3 PROVISIONS THAT YOU THINK ARE BAD POLICY?

4 MR. BARON: OBJECT TO FORM.

5 YOU CAN ANSWER.

6 A. NO, I MEAN, I -- I DON'T KNOW HOW TO ANSWER THAT,
7 BECAUSE I DON'T KNOW WHAT YOU'RE ASKING SPECIFICALLY.

8 Q. (BY MR. BERG) SURE. LET ME REPHRASE, AND TRY TO
9 HELP.

10 BESIDES VOTE BY MAIL ARE THERE ANY OTHER PARTS OF
11 SB 1, THAT YOU THINK ARE BAD POLICY?

12 MR. BARON: SAME OBJECTION.

13 A. I THINK, REDUCING POLLING PLACE -- THE NUMBER OF
14 POLLING PLACES, IS NOT GOOD. I THINK, SHORTING EARLY
15 VOTING DAYS, IS NOT GOOD. I THINK, TAKING POLLING
16 PLACES OFF OF COLLEGE CAMPUSES, IS NOT GOOD. SO, YES.

17 Q. (BY MR. BERG) SO AS WE SIT HERE TODAY, IS IT
18 YOUR UNDERSTAND -- SORRY STRIKE THAT -- LET ME START
19 OVER.

20 AS WE SIT HERE TODAY, DO YOU UNDERSTAND SB 1 TO
21 HAVE REDUCED EARLY VOTING OR INCREASED EARLY VOTING
22 HOURS AND AVAILABILITY?

23 MR. BARON: SAME OBJECTIONS.

24 Q. (BY MR. BERG) IF YOU UNDERSTAND THE QUESTION,
25 YOU CAN ANSWER.

1 A. IN A SECOND LAW -- A SECOND PHONE CALL, YES.

2 Q. SPEAKING SPECIFICALLY ABOUT THE FIRST PHONE CALL.

3 WHAT DID NOAH ASK YOU ABOUT YOUR EXPERIENCE IN THE

4 PRIMARY?

5 A. HE JUST ASKED ME TO EXPLAIN WHAT HAD HAPPENED

6 WITH MY BALLOT BEING REJECTED.

7 Q. SO YOU DISCUSSED YOUR STORY, AND THEN -- IS THERE

8 ANYTHING ELSE DURING THE PHONE CALL BESIDES JUST INITIAL

9 DISCUSSIONS OF YOUR EXPERIENCE?

10 A. NO.

11 Q. OKAY.

12 I HAVE -- I'VE START WITH SOME STANDARD

13 QUESTIONS, I LIKE TO FINISH WITH A FEW STANDARD

14 QUESTIONS, IF THAT'S ALRIGHT?

15 IS THERE ANYTHING THAT YOU TESTIFIED TO HERE

16 TODAY THAT YOU WOULD LIKE TO CORRECT?

17 MR. BARON: OBJECT TO FORM.

18 YOU CAN ANSWER.

19 A. I DON'T BELIEVE SO.

20 Q. (BY MR. BERG) IS ANYTHING YOU TESTIFIED TO HERE

21 TODAY INACCURATE?

22 MR. BARON: OBJECT TO FORM.

23 YOU CAN ANSWER.

24 A. NO.

25 Q. (BY MR. BERG) IS THERE ANYTHING THAT YOU

1 TESTIFIED TO THAT YOU FEEL NEEDS MORE CONTEXT THAN WHEN
2 YOU ORIGINALLY SAID IT?

3 MR. BARON: OBJECT TO FORM.

4 YOU CAN ANSWER.

5 A. NO I DON'T THINK SO.

6 Q. (BY MR. BERG) WELL, THAT'S ALL I HAVE. I'VE
7 ENJOYED OUR CONVERSATION.

8 MR. BERG: I WILL PASS THE WITNESS TO NOAH.

9 MR. BARON: GREAT. IS IT ALRIGHT IF WE TAKE
10 ABOUT -- ANOTHER FIVE MINUTE BREAK, JUST SO I CAN
11 ORGANIZE MY NOTES.

12 MR. BERG: OF COURSE.

13 THE VIDEOGRAPHER: THE TIME IS NOW
14 12:09 P.M., AND WE ARE OFF THE RECORD.

15 (OFF THE RECORD.)

16 THE VIDEOGRAPHER: THE TIME IS NOW
17 12:17 P.M., AND WE ARE BACK ON THE RECORD.

18 MR. BARON: ALICE, HOW ARE YOU DOING?

19 THE WITNESS: GOOD.

20 MR. BARON: SO I'M JUST GOING TO ASK YOU A
21 FEW FOLLOW-UP QUESTIONS. FOLLOWING UP ON WHAT ZAC HAD
22 ASKED YOU EARLIER TODAY.

23 CROSS-EXAMINATION

24 BY MR. BARON:

25 Q. SO MY FIRST QUESTION IS, WHAT YEAR DID YOU

1 REGISTER TO VOTE IN TEXAS?

2 A. 1974.

3 Q. AND DO YOU -- DO YOU KNOW -- DO YOU REMEMBER WHAT
4 FORM OF IDENTIFICATION YOU USED TO REGISTER TO VOTE?

5 A. I DON'T.

6 Q. AND IN NOVEMBER 2022, WHEN YOU VOTED IN-PERSON,
7 WHAT WOULD YOU HAVE DONE IF THE LINE HAD BEEN
8 PARTICULARLY LONG?

9 A. WE WOULD HAVE GONE HOME AND TRIED AGAIN. I WOULD
10 HAVE WAITED TILL IT WAS, YOU KNOW, NOT A LONG LINE.

11 Q. OKAY.

12 AND DO YOU PLAN TO VOTE IN THE 2024 PRIMARY?

13 A. YES.

14 Q. AND DO YOU INTEND TO VOTE IN-PERSON?

15 A. YES, I DO.

16 Q. DO YOU INTEND TO VOTE IN THE 2024 GENERAL
17 ELECTION?

18 A. YES.

19 Q. AND DO YOU INTEND TO VOTE IN-PERSON IN THAT?

20 A. YES, I DO.

21 Q. AND SETTING ASIDE -- SETTING ASIDE YOUR CONCERNS
22 ABOUT HAVING YOUR VOTE COUNTED THROUGH MAIL-IN VOTING,
23 DO YOU FIND IT EASIER OR HARDER TO VOTE BY MAIL AS
24 CONCERNED BY VOTING?

25 MR. BERG: OBJECTION, FORM.

1 Q. (BY MR. BARON) LET ME -- LET ME TRY IT AGAIN.

2 SETTING ASIDE YOUR CONCERNS ABOUT HAVING YOUR

3 MAIL BALLOT COUNTED, DO YOU FIND IT EASIER OR HARDER TO

4 VOTE BY MAIL AS COMPARED TO VOTING IN PERSON?

5 MR. BERG: OBJECTION FORM.

6 YOU CAN ANSWER.

7 A. IT'S MUCH EASIER TO VOTE BY MAIL.

8 Q. (BY MR. BARON) IS YOUR -- IS YOUR CONCERN ABOUT

9 HAVING YOUR MAIL BALLOT COUNTED RELATED TO THE

10 REQUIREMENT THAT YOU PUT AN IDENTIFICATION NUMBER ON THE

11 CARRIER ENVELOPE OF YOUR MAIL BALLOT?

12 A. IT WASN'T THAT SPECIFICALLY, IT WAS JUST THE FACT

13 THAT THERE WERE SEVERAL, LOOKED, LIKE OPTIONS THAT YOU

14 COULD DO. YOU KNOW, YOU COULD EITHER PUT YOUR DRIVER'S

15 LICENSE OR YOUR SOCIAL SECURITY AND I BELIEVE, I DON'T

16 KNOW IF THIS IS TRUE OR NOT, BUT YOU'RE SUPPOSED TO

17 CHOOSE THE ONE THAT YOUR REGISTERED TO VOTE WITH.

18 AND LIKE I HAD SAID EARLIER, I DON'T KNOW WHAT I

19 DIDN'T DO. IF I TRANSPOSED A NUMBER, IF I LEFT OFF

20 SOMETHING, I DON'T KNOW. IT SEEMED TO ME IT WAS A PLACE

21 YOU HAD TO SIGN UNDER THE FLAP OR SOMETHING, I DON'T --

22 I DON'T REMEMBER. BUT I DO KNOW THAT YOU HAVE TO GO

23 OVER IT WITH A FINE-TOOTH COMB AND FILL OUT EVERYTHING.

24 JUST TO BE ON THE SAFE SIDE. AND IT SHOULDN'T HAVE TO

25 -- IT SHOULD BE THAT -- IT SHOULD BE VERY STRAIGHT

1 FORWARD AND IT'S NOT.

2 Q. SO, ONE OF YOUR -- ONE OF YOUR CONCERNS IS ABOUT
3 INCLUDING THOSE NUMBERS FOR THAT -- STRIKE THAT --
4 ONE OF YOUR -- IS ONE OF YOUR CONCERNS THAT YOU
5 MIGHT GET THE NUMBERS WRONG, RIGHT?

6 A. YES. OR I MIGHT LEAVE SOMETHING OUT OR NOT CHECK
7 THE RIGHT BOX, OR SOMETHING LIKE THAT, I DON'T KNOW.
8 IT'S JUST TO ME -- TO ME YOU SHOULD JUST HAVE TO FILL
9 OUT YOUR BALLOT, PUT, YOU KNOW, PUT WHATEVER IS ON YOUR
10 VOTER ID VOTER CARD ON THERE SOMEWHERE, AND SIGN IT, AND
11 MAIL IT.

12 YOU KNOW, IT -- IT SEEMED TO ME THAT SOMETHING
13 THAT WAS SUPPOSED TO BE EASY WAS NOT EASY AND IT WAS A
14 SURPRISE TO ME WHEN IT WAS REJECTED AND SO THEREFORE, I
15 FELT AS AN EDUCATED PERSON, I MEAN, COME ON, I WAS LIKE,
16 OH, HOW STUPID AM I TO NOT FILL OUT SOMETHING CORRECTLY.
17 I JUST FELT TRICKED, I DON'T KNOW -- I DON'T KNOW IF
18 THAT'S THE RIGHT WORD TO SAY. BUT JUST -- IT WAS
19 AGGRAVATED TO ME THAT IT WASN'T JUST A REAL STRAIGHT
20 FORWARD THING. THAT MY -- I DID THE MAIL-IN BALLOT, I
21 THOUGHT I FOLLOWED ALL THE DIRECTIONS, AND OBVIOUSLY I
22 DID NOT. SO I HAD TO JUMP THROUGH MORE HOOPS IN ORDER
23 TO GET MY BALLOT COUNTED. SO, FROM NOW ON, AS LONG AS I
24 AM ABLE I WILL VOTE IN-PERSON. EVEN THOUGH I'M ELIGIBLE
25 TO VOTE BY MAIL, AND THAT WOULD BE EASIER, SUPPOSEDLY,

1 BUT IT'S NOT, OBVIOUSLY.

2 Q. GREAT.

3 MR. BARON: WELL, THOSE ARE ALL THE
4 QUESTIONS THAT I HAVE. I'LL -- THE WITNESS, UNLESS YOU
5 HAVE MORE FOLLOW-UP QUESTIONS, ZAC.

6 MR. BERG: NO FURTHER QUESTIONS FOR ME.

7 THE REPORTER: ARE WE DOING A READ AND SIGN?

8 MR. BARON: YES, WE WILL BE READING AND
9 SIGNING. THANK YOU.

10 THE REPORTER: AND IS ANYONE REQUESTING A
11 COPY OF TRANSCRIPT?

12 MR. BARON: WE WOULD LIKE A COPY OF THE
13 TRANSCRIPT.

14 MR. BERG: STATE DEFENDANTS AS WELL, I THINK
15 THERE IS A STANDING ORDER.

16 MR. BARON: AND IF WE COULD HAVE A ROUGH OF
17 THE TRANSCRIPT.

18 THE REPORTER: OKAY.

19 CAN YOU INCLUDE -- EVERYONE THAT WANTS A
20 TRANSCRIPT OR REQUEST --

21 MR. BERG: YES.

22 THE REPORTER: YOUR E-MAIL ADDRESS. OR I
23 CAN GIVE YOU MY E-MAIL ADDRESS SO YOU CAN E-MAIL
24 DIRECTLY. I THINK THAT WOULD BE EASIEST.

25 MR. BARON: OKAY.

1 THE REPORTER: AND IS ANYONE REQUESTING A
2 COPY OF THE VIDEO.

3 MR. BARON: NO.

4 MR. BERG: WE WILL.

5 THE VIDEOGRAPHER: CAN I PULL US OFF THE
6 RECORD, MS. GONZALEZ.

7 THE REPORTER: I'M SO SORRY. YES.

8 THE VIDEOGRAPHER: THE TIME IS NOW
9 12:24 P.M., AND WE ARE OFF THE RECORD.

10

11

12 (DEPOSITION CONCLUDED AT 12:24 P.M.)

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14

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Attachment 9

Tacoma Phillips April 29, 2022 Deposition Excerpts

Transcript of the Testimony of
The Office of the Dallas County Elections Administrator

Date:

April 29, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF TEXAS
 3 SAN ANTONIO DIVISION

3 LA UNION DEL PUEBLO ENTERO,)(
 ET AL.,)(
 4)(
 PLAINTIFFS,)(
 5)(CIVIL ACTION
 VS.)(NO. SA-21-CV-00844-XR
 6)(
 GREGORY W. ABBOTT, ET AL.,)(
 7)(
 8 DEFENDANTS.)(

9
 10 VIDEOTAPED AND VIDEOCONFERENCED
 ORAL DEPOSITION OF
 11 RIVELINO LOPEZ, TACOMA PHILLIPS
 AND MICHAEL SCARPELLO
 12 APRIL 29, 2022

13 VIDEOTAPED AND VIDEOCONFERENCED ORAL DEPOSITION
 14 OF RIVELINO LOPEZ, TACOMA PHILLIPS AND MICHAEL
 15 SCARPELLO, produced as witnesses at the instance of the
 16 Plaintiff LUPE, and duly sworn, was taken in the
 17 above-styled and numbered cause on the 29th day of
 18 April, 2022, from 10:47 a.m. to 8:02 p.m., before Holly
 19 R. Swinford, CSR in and for the State of Texas, reported
 20 by machine shorthand, at the Office of the Dallas
 21 Elections Administrator, located at the Records
 22 Building, 500 Elm Street, 7th Floor, Room 7Y11, in the
 23 City of Dallas, County of Dallas, State of Texas,
 24 pursuant to Notice, the Federal Rules, and the
 25 provisions stated on the record or attached hereto.

1 permission to mute them, so we'll just have to ask them.

2 MR. STOOL: Just to --

3 THE VIDEOGRAPHER: Never mind. We're
4 good.

5 MS. PERALES: Thank you.

6 TACOMA PHILLIPS,
7 having being first duly sworn, testified as follows:

8 EXAMINATION

9 (Continued)

10 BY MS. PERALES:

11 Q. Ms. Phillips, you've been here since the start
12 of Mr. Lopez's testimony; is that correct?

13 A. Yes.

14 Q. And so you've already heard me introduce myself
15 and walk him through some of the rules of the road for a
16 deposition; is that right?

17 A. Yes.

18 Q. So I'll -- I'll ask you a shorter version of
19 those questions --

20 A. Okay.

21 Q. -- which is, first: Have you ever had your
22 deposition taken?

23 A. No.

24 Q. Okay. First time. It's an honor to be taking
25 your deposition.

1 A. Robert Heard. He's in -- a contractor in our
2 office. And it's another gentleman, the gentleman's
3 name -- I cannot remember his name.

4 Q. And Mr. Heard, who is a contractor, is he what
5 somebody might call a temp?

6 A. Yes, a temp contractor.

7 Q. Okay.

8 A. He's helping with the PIAs in our office.

9 Q. Okay. And when you say "PIA," you mean Public
10 Information --

11 A. Yes --

12 Q. -- for --

13 A. Public Information Act, yes.

14 Q. Okay. So you're responding to requests for
15 information?

16 A. Yes.

17 Q. And then you mentioned one other individual.

18 A. Yes, I did. I do not remember his name.

19 Q. Okay. And he works in your office, as well?

20 A. I believe he's a contractor, also.

21 Q. Okay. Did you talk to anybody from the Office
22 of the Attorney General for Texas?

23 A. No.

24 Q. Did you review any paperwork in preparation for
25 this deposition?

1 A. Just the paperwork that was given to answer my
2 portion of the questions.

3 Q. Okay. And who gave that paperwork to you?

4 A. Ben Stool.

5 Q. Did you bring anything here with you today
6 related to the case, any personal notes or charts or
7 other paperwork?

8 A. Yes. I brought the paperwork that was
9 provided -- given to me by Ben Stool, but I just jotted
10 down notes on that.

11 Q. And do you mean that you jotted notes on the --
12 the chart that lists the topic and has your name across
13 from those topics?

14 A. Yes.

15 Q. Okay. So let's go ahead and just refer back to
16 Exhibit 1. It should be somewhere --

17 THE REPORTER: It's over here (handing).

18 Q. You have been handed what has been marked
19 Deposition Exhibit Number 1 (holding up a copy of
20 document), and it says Plaintiffs' Third Amended Notice
21 of Rule 30(b)(6) Deposition.

22 Do you see that at the top?

23 A. I see that, yes.

24 Q. Do you recognize this document; have you ever
25 seen it before?

1 A. It was sent to me. Are you --

2 Q. Do you recognize, starting on Page 12 -- no --

3 yes.

4 Starting on Page 12, do you recognize the items
5 listed under the heading "Deposition Topics"?

6 A. Yes.

7 Q. And then let's turn to Deposition Exhibit

8 Number 2.

9 THE REPORTER: Oh, I'm sorry (handing).

10 Q. Can you look at the places where your name is
11 listed in the right-hand column?

12 A. Yes.

13 Q. And that's on Page 1, Page 2, Page 3.

14 It looks like just pages 1, 2 and 3; is that
15 right?

16 A. Yes.

17 Q. Are you prepared to testify on those topics
18 today?

19 A. Yes.

20 Q. And do you understand that when you're
21 answering questions on these topics, that you're
22 speaking for the Dallas County Elections Department?

23 A. Yes.

24 Q. Because you are designated representative of
25 the department. Yes?

1 A. Yes.

2 Q. Okay. And so when I say "you" or "yours,"
3 please understand that to mean Dallas County Elections
4 Department.

5 A. Yes.

6 Q. Now, if there is something outside your
7 knowledge, it's perfectly okay to say that.

8 A. Okay.

9 Q. And we can talk through whether there's
10 somebody else who maybe has more knowledge and -- and
11 then we can work through that with the attorneys. Okay?

12 A. Okay.

13 Q. So even though you're testifying for Dallas
14 County Elections, I want to make sure that if something
15 is simply outside the scope of your knowledge, that you
16 feel comfortable saying that.

17 A. Okay.

18 Q. What is your title and your job?

19 A. Mail Ballot Supervisor.

20 Q. How long have you held that position?

21 A. One year.

22 Q. What did you do before you became the Mail
23 Ballot Supervisor?

24 A. I was the Assistant Voter Registration
25 Supervisor.

1 Q. Did you work under the supervision of
2 Mr. Lopez?

3 A. Yes.

4 Q. How long were you an Assistant Voter
5 Registration Supervisor?

6 A. I'm thinking. I will say since 2014 through
7 2021, March of 2021.

8 Q. So, roughly, seven years?

9 A. Yes.

10 Q. And then prior to becoming the Assistant Voter
11 Registration Supervisor, what were you doing?

12 A. I was -- I was a Lead Clerk in Voter
13 Registration.

14 Q. And do you know about how many years you did
15 that?

16 A. I did that for probably a year.

17 Q. And then before that?

18 A. I was a clerk in Voter Registration.

19 Q. I think they call those battlefield promotions.

20 A. Yes.

21 Q. Okay. And how long were you a clerk in Voter
22 Registration?

23 A. Since 1998, August of 1998.

24 THE REPORTER: You said August of nineteen
25 ninety- --

1 THE WITNESS: 1998, yes.

2 THE REPORTER: Thank you.

3 Q. So that would be -- and before you were a clerk
4 in Voter Registration, were you working for Dallas
5 County?

6 A. No.

7 Q. Okay. So all in all, about how many years have
8 you been working for Dallas County Elections?

9 A. August of 2022 would be 24 years.

10 Q. Wonderful. Congratulations.

11 A. Thank you.

12 Q. Before you became Mail Ballot Supervisor a year
13 ago, did somebody else hold that job?

14 A. Yes.

15 Q. Who was that?

16 A. Brylon Franklin.

17 Q. Spell the first name.

18 A. B-r-y-l-o-n.

19 Q. Brylon. And then the last name?

20 A. Franklin.

21 Q. Franklin. Do you know how long Brylon Franklin
22 was in the position of Mail Ballot Supervisor?

23 A. No, I do not.

24 Q. Was it more than a year?

25 A. Yes. Yes, it was more than a year, but I can't

1 tell you how long.

2 Q. Who does the Mail Ballot Supervisor report to?

3 A. Michael Scar- -- oh, I'm sorry. Let me -- it's
4 Malissa Kouba.

5 Q. And who is Malissa Kouba?

6 A. Assistant Administrator Deputy. I don't know
7 the exact title, the name of the title, but I know she's
8 the Assistant Administrator Deputy.

9 Q. So do you report to Malissa Kouba?

10 A. I report to Malissa Kouba, yes.

11 Q. Do you know how long she's been in her
12 position?

13 A. A year -- less than a year, I believe.

14 Q. Less than a year. So then who did Brylon
15 Franklin report to?

16 A. Tony Pippin-Poole.

17 THE REPORTER: Tony -- what was the last
18 name?

19 THE WITNESS: Pippins-Poole (sic).

20 Q. Was Tony Pippins-Poole the Elections
21 Administrator since you joined the Elections Department
22 in 1998?

23 A. No.

24 Q. When you first got to the Elections Department,
25 who was the Election Administrator, if anybody?

1 A. Bruce R. Sherbert.

2 Q. Bruce R., like the letter R --

3 A. Like the letter.

4 Q. And then --

5 A. Sherbert --

6 Q. -- Sherbert --

7 A. -- yes.

8 Q. -- like the dessert? Yeah, got it.

9 Are you from Dallas County?

10 A. Yes.

11 Q. Where did you go to high school?

12 A. I went to Business Management High School,
13 Business Management Magna High School.

14 Q. Okay. That's here in Dallas?

15 A. That was here in Dallas.

16 Q. Did you do any education after high school?

17 A. No.

18 Q. Okay. Did you start working for Dallas County
19 Elections after you completed high school?

20 A. No.

21 Q. Okay. Sometimes I ask people, like what was
22 the most interesting thing they did before they got to
23 their position. Senator Hughes told me he sold
24 appliances door to door, but I will not ask you that
25 question in the interest of time.

1 When I'm quiet, it's because I'm not going to
2 ask you questions, so I'm just moving through my list.

3 A. Okay.

4 Q. Do you know, in general, what percent of votes
5 that are cast in Dallas County are vote by mail?

6 A. In general, no, I do not.

7 Q. For -- well, let me ask you this: In the past,
8 to the best of your knowledge or from 2018 (indicating)
9 up until now, has Dallas County ever sent voters
10 application for ballot by mail on Dallas County's
11 initiative?

12 MS. HUNKER: Objection, form.

13 A. Not to my knowledge.

14 Q. (By Ms. Perales) So is it correct to say,
15 then, that Dallas County, from 2018 forward, has only
16 ever sent somebody an application for ballot by mail
17 because that voter requested it first?

18 A. To my knowledge, yes.

19 Q. So, for example, Dallas County never did a
20 mailing out to voters over 65, saying, Here's an
21 application for ballot by mail in case you want to use
22 it, or something like that?

23 A. Not to my knowledge.

24 Q. Before you became -- or before you were in your
25 current position, were you involved in processing or

1 A. I'm sorry.

2 Q. So you were getting phone calls from voters
3 with questions about this process; is that right?

4 A. Yes.

5 Q. And generally, what were voters communicating
6 to you?

7 A. The reason why they received the letter, what
8 was the letter for. If it was for missing their Social
9 Security or driver's license, we explained to the voter
10 that the only thing they had to do was put that on their
11 ABBM application.

12 Q. Did you get any voters asking why they were
13 being sent a Voter Registration Application when they
14 knew they were already registered to vote?

15 A. Yes. We informed them that their -- if, in
16 fact, if their voter registration record did not have
17 the Texas Driver's License or ID or Social Security,
18 that they would need to put that on their information --
19 on their application. I'm sorry. We need to put it --
20 have it on their voter registration record, also have it
21 on their ABBM application. But it was a very rarity
22 that we did get any of those and we had to send those
23 applications out to a voter, because most of the time we
24 will have the information on the voter registration
25 file, but it wasn't on the ABBM application.

1 Q. Okay. So, in your experience, many ABBMs were
2 coming to your office and the voter had failed to put
3 either a driver's license number or the last four of the
4 Social?

5 A. Yes, or they forgot to put the correct
6 information that was on the voter registration file.

7 Q. All right. So they might have put a driver's
8 license number when you had the last four of the Social?

9 A. Yes.

10 Q. Or vice versa?

11 A. Or vice versa.

12 Q. They might have put the last four of the Social
13 and you only had the driver's license --

14 A. Yes.

15 Q. -- number?

16 A. Yes.

17 Q. Did your office keep track of the number of
18 communications you got from voters with questions about
19 the new ID verification requirements?

20 A. No, we did not.

21 Q. Would you say that your office spent a
22 significant amount of time answering questions from
23 voters or responding to their inquiries about the new ID
24 requirements?

25 A. Yes.

1 MS. HUNKER: Objection, form.

2 Q. (By Ms. Perales) Is there any way to get a
3 sense of how much time that was taking out of your
4 regular day? Can you describe that for me since you
5 didn't necessarily keep track of the number of calls?

6 A. Repeat that again.

7 Q. How can I -- how can I get a sense from you of
8 exactly how much time it was taking to respond to voter
9 inquiries if you're telling me you didn't necessarily
10 keep track of the number of phone calls that you were
11 getting? How can I understand how much time or how much
12 resources of your office were dedicated in the lead-up
13 to the March 2022 primary to answering questions from
14 voters who had rejected ABBMs, for example?

15 A. That's hard to say. A call could take a
16 minute. Another call could take ten minutes. It's hard
17 to say.

18 Q. Did you have particular staff that would --
19 that these calls would get transferred to so they could
20 explain to the voters what the new requirements were?

21 A. No. We have -- the way the system works is:
22 You call into our office. You can pick who you want to
23 speak to: mail ballot, absent- -- absentee, early
24 voting, voter registration. So if they had a absentee
25 or mail ballot question, they would click Number 1. And

1 Q. Would --

2 A. I have a staff of eight in my office. All
3 eight will answer the phone. All eight would get a
4 phone call.

5 Q. Would --

6 A. So that person may get ten calls in one day.
7 That person may get 20 calls in one day. I do not know.

8 Q. Would it be fair to say that most of the calls
9 that you were getting from voters with questions about
10 why their ABBM or mail ballot was rejected were calls
11 that were related to the new ID requirements for SB 1?

12 A. Yes.

13 MS. HUNKER: Objection, form.

14 Q. (By Ms. Perales) You mentioned there are eight
15 people in your office. Those are -- would that be
16 correct, then, to say that there are eight people whose
17 work is primarily dedicated to processing either
18 application for ballot by mail or mail ballots?

19 A. Yes.

20 Q. Were there voters who provided a number on
21 their ABBM that you were able to match and that you sent
22 them a mail ballot and then when you got the mail
23 ballots back, you could not match the ID number that had
24 been provided on the mail ballot envelope?

25 A. Yes.

1 Q. Okay. Do you know about how many those were?

2 A. I do not know.

3 Q. Would we be able to figure it out by -- did
4 you -- I answered my own question. Let me start again.

5 Did you keep track of the voters for whom you
6 received a mail ballot, but you could not verify their
7 ID number in order to count that mail ballot?

8 A. Yes.

9 Q. Okay. And presumably, if they were sending you
10 a mail ballot, they had already managed to get
11 themselves through the ABBM process, right, by giving
12 you a number you could match?

13 A. Yes.

14 Q. Okay. But then, we have the number of people
15 who were sent mail ballots and then you get these mail
16 ballot back and you can't verify the number. That's
17 a -- that's, like, a known -- we could figure that out?

18 A. Yes.

19 Q. Okay. Did you ever advise a voter over the
20 phone what to do when they received a notice and a new
21 ABBM and maybe also a new Voter Registration
22 Application? Did you ever advise a voter on the phone,
23 like, This is what you have to do with these papers and
24 get them back to us so we can send you a mail ballot?

25 A. Yes.

1 Q. Did you ever -- did you ever talk to a voter
2 for whom there wasn't enough time left, either for you
3 to send them those new materials or for them to return
4 those materials, and did you offer those voters a
5 different advice?

6 A. Yes.

7 Q. Okay. Tell me how that situation would come to
8 pass?

9 A. Let's say if you sent in your information and
10 we sent you a notice back, and it was past the deadline
11 or you wouldn't have enough time to get into the mail,
12 if you received a ABBM, sent a ABBM in and a notice was
13 sent to you, then I would advise that voter to go to an
14 Early Voting location or go to the polls on Election Day
15 to vote in person. And then the ABBM application that I
16 sent back to you, just go ahead -- and I will let them
17 know to fill out everything completely, answer all the
18 questions, and mail it back to us, and then we'll get
19 you ready for the next election.

20 Q. Okay. Did you ever have a voter tell you, in
21 response to that advice, that they -- they weren't
22 physically able to get to the poll to vote in person?

23 A. Yes.

24 Q. Do you remember what some of those reasons were
25 that the people were describing about themselves that

1 they weren't physically able to get --

2 A. They said --

3 Q. -- to the poll?

4 A. -- they could not walk or they couldn't --
5 didn't have a way or a car to get to the polls.

6 Q. Okay. Were most of the people that you were
7 talking to over age 65?

8 A. Yes.

9 Q. Do you have data on what -- let's say for
10 pre-SB 1, what proportion of your mail voters fall into
11 the over-65 category versus disability versus absent
12 from the jurisdiction on Election Day?

13 A. Yes.

14 Q. For pre-SB 1?

15 A. Yes, because, you know, we have the category.
16 We have -- they have to tell us how they are vot- -- why
17 they're voting mail ballot, so we have -- we put that
18 into our system, Y65, which is annual 65; YDS, which is
19 disabled; or REM (phonetics), out of county.

20 Q. Okay.

21 A. Uh-huh.

22 Q. And that's because they check a box; isn't
23 that --

24 A. They check --

25 Q. -- right --

1 A. -- a box, yes.

2 Q. -- on the ABBM?

3 A. Yes.

4 Q. Okay. And that continues through -- even
5 through the March primary of 2022?

6 A. Yes.

7 Q. And does that information go into your computer
8 system in any way?

9 A. Yes.

10 Q. So you could run a report, for example, how
11 many of your mail voters were sent a ballot because they
12 checked off over 65 versus disabled versus absent; is
13 that right?

14 A. Yes.

15 Q. What system would produce that report; what's
16 the name of your system?

17 A. VEMACS.

18 Q. VEMACS.

19 THE WITNESS: It's V-E-M-A-C-S.

20 THE REPORTER: Thank you.

21 Q. Thank you. I had completely gotten that wrong.

22 A. A lot of people do. I'm sorry. And the
23 corporation is Votec that owns the VEMACS.

24 THE REPORTER: I'm sorry?

25 THE WITNESS: VOTEC, V-O-T-E-C.

1 Q. Did you find yourself unable to process
2 applications for ballot by mail at a greater number
3 following SB 1's requirement to match an ID number?

4 A. Yes.

5 Q. And how do you know the numbers are greater
6 post SB 1?

7 A. Because of the requirements of the driver's
8 license and the ID it didn't ask before.

9 Q. All right. How do you know you were rejecting
10 more ABBMs and more mail ballots post SB 1? Like, how
11 do you know the volume was greater?

12 MS. HUNKER: Objection, form.

13 A. How do I know the volume was greater?

14 Q. (Moving head up and down.)

15 A. By the numbers that we was putting into the
16 system of the notice codes, notices that we sending out.

17 THE REPORTER: I'm sorry. Can you repeat
18 your answer, and can you speak up just a little bit --

19 THE WITNESS: I'm sorry.

20 THE REPORTER: -- please.

21 THE WITNESS: About how -- the
22 applications that we was -- put in the systems, the
23 notices that we were generating to the voters.

24 THE REPORTER: Thank you.

25 Q. And I think you said notice codes?

1 A. Notice codes.

2 Q. Were you here when Mr. Lopez testified that, at
3 some point, Dallas County received an update from the
4 Secretary of State in TEAMS or through TEAMS that gave
5 you more ID numbers?

6 A. Yes.

7 Q. Were you familiar with that when it happened?

8 A. He told me that it happened.

9 Q. Okay. So do you know whether it got any easier
10 to find a matching ID number at that point? Or -- I
11 understand it was February.

12 Was it too late at that point? Do you -- do
13 you have any recollection of that?

14 A. I do --

15 MS. HUNKER: Objection, form.

16 A. -- not know if it got easier or not.

17 Q. (By Ms. Perales) Okay. Let me ask you another
18 question about verifying the ID number.

19 Would it be fair to say that when you received
20 either an ABBM or a mail ballot, that you would take
21 that number that was provided to you by the voter and
22 look it up in the Dallas County voter roll for that
23 voter? You would look up that voter in your own voter
24 registration records to see if you could find a matching
25 number?

1 A. I do not open the envelope with the flap with
2 the ID number on it.

3 Q. Who does?

4 A. SVC.

5 Q. Okay. Did you hear of any problems the
6 Signature Verification Committee had getting those
7 envelopes open without destroying the number underneath?

8 A. Are you asking about opening the flap, or are
9 you asking about opening the envelope?

10 Q. Opening the flap. Who opens the flap?

11 A. I do.

12 Q. Okay.

13 A. I do.

14 Q. Did you have any problems opening the flap?

15 A. I hope not. I designed that flap --

16 Q. Okay.

17 A. -- helped design it. No, just kidding. No.

18 Q. I just -- as we go around this day and we
19 talked to all these counties --

20 A. Uh-huh.

21 Q. -- we get all kinds of stories.

22 A. We have -- we have -- the way we designed the
23 flap was pre-perf, and we just pull it back.

24 THE REPORTER: You said pre --

25 THE WITNESS: Perf.

1 THE REPORTER: Pre-perf.

2 THE WITNESS: Uh-huh.

3 THE REPORTER: Thank you.

4 Q. Pre-perforated?

5 A. Pre-perforated. I'm sorry. Yes.

6 Q. So you didn't have to use any tools or
7 implements to try to get that open?

8 A. No.

9 Q. That's probably worth a phone call with some
10 counties that I can recommend to.

11 And so do you think that there are voters in
12 Dallas County who submitted an ABBM, you couldn't match
13 their ID number and you sent them the notice and the new
14 materials, but they were never able to cure the ABBM
15 and, thus, did not vote?

16 MS. HUNKER: Objection, form.

17 A. Yes.

18 Q. (By Ms. Perales) Okay. And what would be the
19 reasons that they couldn't cure the ABBM?

20 A. What would be the reasons why?

21 Q. Yes. So, for example, one reason might be they
22 just didn't have enough time; they just didn't get it
23 done in time.

24 But were there people who gave you a number,
25 and you just simply weren't able to match it, even after

1 you sent them the notice and --

2 A. Yes.

3 Q. Okay. And would that be because you just
4 didn't have their ID number that they provided in your
5 system?

6 A. Yes.

7 Q. And now I'm going to ask on the mail ballot
8 side, were there people who submitted a mail ballot to
9 you and you weren't able to verify that number and,
10 thus, you were not able to have that ballot counted?

11 MS. HUNKER: Objection, form.

12 A. I -- I don't feel comfortable answering that
13 question because I don't, you know, make the decisions
14 on that. Ballot Board does. Early Voting Ballot Board
15 does.

16 THE WITNESS: I'm sorry. Early Voting
17 Ballot Board.

18 THE REPORTER: Okay.

19 Q. Did you or anyone in your office speak to any
20 voters who told you that they just hadn't been able to
21 vote in the election because of the voter ID number
22 matching requirements or as a result of the voter ID
23 number matching requirements?

24 MS. HUNKER: Objection, form.

25 A. Yes.

1 Q. (By Ms. Perales) Can you give me an example of
2 a person like that? Do you recall any specific --

3 A. Of a voter who just could not get to the polls?

4 Q. Yes.

5 A. That's it. They couldn't -- they couldn't get
6 out of the house to get to the polls and that is their
7 only way of voting, was voting by mail.

8 Q. And a voter who you couldn't match their ID
9 number?

10 A. Yes. A lot of voters just got frustrated and
11 didn't -- wouldn't turn it back in.

12 Q. Do you receive mail ballots where another
13 individual has helped the voter, provided assistance to
14 that voter, and then signed that spot on the envelope
15 where they are supposed to sign?

16 A. Do I receive -- ask me that again.

17 Q. Yeah. Do you receive mail ballots that come
18 back to you and you can see that an assistor has
19 provided assistance to that voter?

20 A. Are you asking me do I receive the ABBM
21 application or the mail ballot?

22 Q. I was asking just about the mail ballot.

23 A. Do we see receive -- I can see that, yes.

24 Q. Do you record anywhere that a mail ballot came
25 to you and there's an indication that the voter received

1 assistance?

2 A. No, I do not.

3 Q. So the only way we could figure out that number
4 would be to go back through the envelopes; is that
5 right?

6 A. Yes.

7 Q. Okay. That sounds time-consuming.

8 A. Yes.

9 Q. And now let me ask you about the application
10 for ballot by mail. If a voter receives assistance in
11 filling out the application for ballot by mail, do you
12 keep track of that number anywhere?

13 A. No.

14 Q. Okay.

15 A. No, we do not keep track, but what I can say
16 is: If a application come into our office and the --
17 they have a witness here (indicating), but they didn't
18 sign, then we send them that notice to the voter that
19 it's not signed; or if they signed it down here and
20 didn't fill out the information, then we send a notice
21 (indicating) to that, but...

22 Q. So only in a situation where you can tell that
23 somebody provided assistance, but they didn't fill out
24 the paperwork --

25 A. If it's --

1 ahead. Now start. Thank you.

2 A. With the husband and wife situation, husband
3 calls, requests for a ballot by mail. He wants to
4 request one for his wife. We would tell him, no, we
5 have to speak to the wife. Wife -- and he would say,
6 "The wife is at work."

7 And I said, "Well, she'll have to call us back
8 later."

9 Q. Okay. Was there ever an instance where the
10 person could not tell you over the phone -- that they
11 were there, but they could not communicate to you?

12 A. No, not -- not to my knowledge (indicating).

13 Q. Okay. And then have you heard from anybody
14 else in your staff that they had a situation where the
15 voter could not communicate that they needed the ballot
16 and that's why this other person was calling on their
17 behalf?

18 MS. HUNKER: Objection, form.

19 A. Not to my knowledge.

20 Q. (By Ms. Perales) Okay. Let me ask you about
21 the ballot tracker because that's --

22 A. Okay.

23 Q. -- the next thing on my list.

24 To the best of your knowledge, when did the
25 ballot tracker become available for Dallas County people

1 to use to track their ballots?

2 A. I do not know.

3 Q. Okay. Did you ever advise a voter to try to
4 use the ballot tracker to put ID number information in
5 there so that they could vote by mail?

6 A. From my knowledge, you cannot put ID
7 information in the ballot tracker.

8 Q. So what do you know about the ballot tracker?
9 What is --

10 A. The ballot tracker is a device that the voter
11 can look up to track their ballot to see if their
12 application was accepted, if their ballot was mailed to
13 them and when the ballot was returned -- when they
14 mailed the ballot back to the county, and if the ballot
15 was received.

16 Q. Do you know what information the voter has to
17 put into the ballot tracker to access that information?

18 A. Yes.

19 Q. What is that information?

20 A. They have to put their name -- first name, last
21 name, date of birth, driver's license, Social Security,
22 address, the county that they live in.

23 Q. Uh-huh. Do you know if, in order to get into
24 the ballot tracker, that the system, the ballot tracker
25 system, had to match the voter's driver's license and

1 last four of the Social in order for the voter to get
2 into the system?

3 A. Yes.

4 Q. Okay. And so if the voter put in their
5 driver's license number and the last four of their
6 Social, but one of those numbers was missing from their
7 voter registration record, is it correct to say, then,
8 that they could not access the ballot tracker?

9 A. Yes.

10 Q. Did you have anybody contact your office to
11 tell you about that?

12 A. Yes.

13 Q. More than ten people?

14 A. Yes.

15 Q. Did you offer any advice to those voters about
16 how to access the ballot tracker system when they were
17 providing their ID numbers, but it -- it just wasn't
18 letting them in?

19 A. Yes.

20 Q. And what did you tell them?

21 A. Well, if I was speaking to the voter, then I
22 would look up their voter registration information, and
23 I advised them what they had in the system.

24 Q. And did you ever look up a voter and find that
25 there was a driver's license number, but no last four of

1 the Social?

2 A. Yes.

3 Q. Did you ever look up a voter and see that there
4 was the last four of the Social, but no driver's license
5 number?

6 A. I don't recall doing that, remember that one.

7 Q. Was it more the -- more often the case that a
8 voter's driver's license number was in their
9 registration record, but not the last four of their
10 Social?

11 A. Yes.

12 Q. Do you know, when a person fills out a voter
13 registration application, whether they have to provide
14 both the driver's license number and the last four of
15 the Social or if they can just provide the driver's
16 license number and be accepted for voter registration?

17 MS. HUNKER: Objection, form.

18 A. On the voter registration application, it
19 does -- it has the question for both, but it says "or,"
20 either-or.

21 Q. Is it also the case that you have voters
22 registered to vote in Dallas County who registered to
23 vote before the voter registration application asked for
24 either the driver's license number or the last four of
25 the Social?

1 Q. And is this always the way that you interpreted
2 the law?

3 MS. HUNKER: Objection, form.

4 A. Yes.

5 Q. (By Ms. Bender) Okay. So, again, throughout
6 the entire time that you were processing ballots for the
7 March 2022 primary --

8 A. (Witness moves head up and down.)

9 Q. -- you would accept it if the driver's license
10 number was incorrect, but the Social Security number was
11 correct?

12 A. Yes.

13 MS. BENDER: Okay. That's all of my
14 questions. Thank you.

15 THE WITNESS: Thank you.

16 THE REPORTER: Just a second.

17 EXAMINATION

18 BY MS. CAI:

19 Q. Hello, Ms. Phillips.

20 MS. CAI: Oh. Go ahead.

21 A. Hi.

22 MS. PERALES: One second, please. One
23 second, please.

24 THE REPORTER: Okay. And who is this,
25 please?

1 MS. CAI: My name is Sophia Cai, and I'm
2 representing the OCA Plaintiffs.

3 MS. PERALES: Slow down for one second.
4 Can you just say that more slowly?

5 MS. CAI: Of course. My name is Sophia
6 Cai, spelled S-o-p-h-i-a. Last name, Cai, C-a-i.

7 THE REPORTER: Okay. And you're
8 representing who?

9 MS. CAI: The OCA-Greater Houston
10 Plaintiffs.

11 THE REPORTER: Okay. Thank you.
12 Okay. Thank you.

13 MS. CAI: Great.

14 Q. (By Ms. Cai) Hi, Ms. Phillips. Thank you --

15 A. Hi.

16 Q. -- for bearing with us. I just have a few
17 questions for you.

18 You testified earlier that you didn't know off
19 the top of your head the number of people who submitted
20 an application for ballot by mail that was incomplete
21 because you could not verify their ID number.

22 Even without that exact number off the top of
23 your head, do you know whether the number of ABBMs that
24 were rejected in the March primary was greater than in
25 past years?

1 MS. HUNKER: Objection, form.

2 A. Yes, it was greater.

3 Q. (By Ms. Cai) What accounts for that greater
4 number of rejections?

5 MS. HUNKER: Objection, form.

6 A. The new requirements, the missing driver's
7 license or the missing Social Security numbers.

8 Q. (By Ms. Cai) Do you have reason to believe
9 that some individuals whose applications for ballot by
10 mail or mail ballots are being rejected -- excuse me --
11 that have been rejected are, in fact, eligible voters
12 who made errors while filing -- filling out their ID
13 numbers?

14 MS. HUNKER: Objection, form.

15 A. Yes.

16 Q. (By Ms. Cai) Are you or your office concerned
17 by the greater number of rejected applications for
18 ballot by mail or mail ballots in the March primary?

19 MS. HUNKER: Objection, form.

20 A. Yes.

21 Q. (By Ms. Cai) Why are you concerned?

22 A. Because voters before the SB 1 law were able to
23 vote and cast their ballots, and ballots counted.

24 Q. Have you or your office conveyed that concern
25 to the Secretary of State?

1 A. I have not; but my office -- some people in my
2 office probably have, yes.

3 Q. Do you know what they have said?

4 A. No, I don't.

5 Q. Have you or your office conveyed that same
6 concern to other election officials?

7 MS. HUNKER: Objection, form.

8 A. Probably so. I do not know.

9 Q. (By Ms. Cai) Have you personally conveyed that
10 concern to anyone?

11 A. No.

12 Q. Turning to SB 1 requirements next, are you
13 aware that SB 1 adds additional requirements in order to
14 register to vote by mail or to actually vote by mail?

15 MS. HUNKER: Objection, form.

16 A. Repeat that again.

17 Q. (By Ms. Cai) This has probably been covered,
18 but is it correct that you are aware that SB 1 adds
19 requirements to register to vote by mail or to actually
20 vote by mail?

21 A. Yes.

22 MS. HUNKER: Objection, form.

23 Q. (By Ms. Cai) Is a registered voter with a
24 disability able to get a modification or accommodation
25 to the ID requirement for voting by mail?

Attachment 10

Yvonne Ramon

**May 10, 2022 Deposition
Excerpts**

Transcript of the Testimony of
Yvonne Ramon

Date:

May 10, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs STATE OF TEXAS

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO)	
ENTERO, ET AL)	
)	
vs.)	CASE NO. 5:21-cv-0844-XR
)	
)	
STATE OF TEXAS, ET AL)	
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OCA-GREATER HOUSTON, ET AL)	
)	
vs.)	CASE NO. 1:21-cv-0780-XR
)	
TEXAS SECRETARY OF STATE)	
JOHN SCOTT, ET AL)	
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HOUSTON AREA URBAN)	
LEAGUE, ET AL)	
)	
vs.)	CASE NO. 5:21-cv-0848-XR
)	
GREGORY WAYNE ABBOTT, ET)	
AL)	
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LULAC TEXAS, ET AL)	
LEAGUE, ET AL)	
)	
vs.)	CASE NO. 1:21-cv-0786-XR
)	
JOHN SCOTT, ET AL)	
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MI FAMILIA VOTA, ET AL)	
)	
vs.)	CASE NO. 5:21-cv-0920-XR
)	
GREG ABBOTT, ET AL)	
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UNITED STATES OF AMERICA)	
)	
vs.)	CASE NO. 5:21-cv-1085-XR
)	
STATE OF TEXAS, ET AL)	

Yvonne Ramon

May 10, 2022
Page 2

ORAL & VIDEOTAPED DEPOSITION

YVONNE RAMON

May 10, 2022

ORAL & VIDEOTAPED DEPOSITION OF YVONNE RAMON,
produced as a witness at the instance of the United
States and duly sworn, was taken in the above-styled and
numbered cause on the 10th day of May, 2022, from
9:06 a.m. to 4:09 p.m., before Dora Canizales, Certified
Shorthand Reporter in and for the State of Texas,
reported by computerized stenotype method at the Hidalgo
County Safety Division, 9805 North Tenth Street,
McAllen, Texas 78504, pursuant to the Federal Rules of
Civil Procedure and the provisions stated on the record
or attached hereto.

1 A Yes.

2 Q If the question is unclear to you, just let me
3 know. If you don't ask for clarification, I will assume
4 you understood the meaning of the question. Does that
5 make sense?

6 A I understand.

7 Q Okay. Your attorney may object to some of my
8 questions. Those objections are for the judge to
9 consider at a later point. Unless your attorney
10 specifically instructs you not to answer, just answer my
11 question.

12 A I understand.

13 Q Okay. Finally, if you need to take a break for
14 any reason, just let me know. I will try to go -- take
15 a break maybe every hour or so.

16 The only thing that I ask is that if a
17 question is pending when we break, that you just answer
18 before we go off the record.

19 A Yes.

20 Q Okay, great.

21 Is there anything that might impair your
22 ability to testify truthfully and honestly today?

23 A No.

24 Q Have you taken any medication, alcohol, or
25 drugs that would impair your testimony today?

1 A No.

2 Q Okay. I would like to give you an exhibit and
3 ask the court reporter to mark this as Exhibit 1.

4 (Exhibit 1 marked.)

5 Ms. Ramon, have you seen this document
6 before?

7 A I have.

8 Q And what is it?

9 A It is the latest document that I have received
10 in regards to being prepared for this deposition.

11 Q So do you understand that you have been
12 designated to testify under Federal Rule of Civil
13 Procedure 30(b)(6), which means that you'll be
14 testifying today on behalf of your office?

15 A Okay. I understand.

16 Q Okay. And so that's a little bit different
17 than your prior testimony in this case that was just in
18 your personal capacity, do you understand?

19 A I see. Thank you.

20 Q Okay. Now, if you could flip to page -- I
21 guess there aren't page numbers, but the page at the
22 bottom where it says "Deposition topics."

23 A I'm there.

24 Q Are you there? Okay.

25 Have you seen these topics before?

1 A I have.

2 Q And have you spent time reviewing them before
3 today's deposition?

4 A I have.

5 Q Okay. And are you prepared to testify on
6 behalf of your office on behalf of each of these topics?

7 A To the best of my ability.

8 Q Great.

9 So I know you spoke a little bit about
10 your background and duties during the last deposition,
11 and so I won't belabor the point too much. But I do
12 want to get some of the basics out there just for the
13 record.

14 Could you just briefly explain what your
15 responsibilities are as the Hidalgo County Elections
16 Administrator?

17 A As the elections administrator, I oversee two
18 main departments. The first is the voter registrar
19 department, which would be under the tax assessor if
20 there was not an EA in place.

21 And the second is the elections operations
22 division, which would be under the county clerk, if
23 there were not an EA in place.

24 So basically those two are the main jobs.
25 But then again, within the scope of those two, we've got

1 a GIS department that oversees the most updated maps.

2 And I think that's very important as well.

3 Q And what are the differences in your
4 responsibilities between the two departments that you
5 just mentioned?

6 A One is actually maintaining and synchronizing
7 with the Secretary of State's office as people register
8 to vote. So we maintain the database, it's what it's
9 called. So any time a person fills out an application,
10 it can be a new voter or it can even be a change of an
11 existing voter, we maintain those -- those records.

12 Aside from that, any time that a person
13 has a question in regards to their information on their
14 application, if they have a change, then all that would
15 come to us.

16 The responsibility is that every night we
17 upload that information to the Secretary of State's
18 office as their team database, which is the State
19 database must be synchronized and in sync with our
20 information, because we are what is called an offline
21 county, so we don't type in our information directly to
22 the State, but on our own vendor side. And then we
23 upload every night.

24 So basically anything to do with
25 registration of a voter.

1 The operations division handles the
2 administration of elections.

3 By law, I'm required to oversee all
4 federal, state, and county. But also by law, as an
5 elections administrator, if a local jurisdiction such as
6 a city, a school a water district, the South Texas
7 College, for example, if they ask for us to help them
8 administer their election, I must say yes. So we also
9 then handle local jurisdictions.

10 So basically everything to do with the
11 administering of the election as it begins and as it
12 ends.

13 Q Okay. And about how many employees work in the
14 voter registrar department?

15 A Permanent employees are 27, and we have 14
16 temps that can come and go as an election begins and
17 ends.

18 Q I'm sorry. I didn't get that the last part.
19 How many?

20 A Fourteen temporary.

21 Q And how many employees work in the elections
22 operations department?

23 A In the operations, pretty much -- I'll start
24 off with VR. I got seven. So about 20. Because we all
25 work in each department, I think because since it's one

1 umbrella.

2 The VR database processors, there are
3 seven. And I think the rest of the departments work in
4 the operations of the election, in administration of the
5 election. And so pretty much I think all 20 work
6 everything.

7 Q Got it. And you have temporary employees for
8 the elections operations --

9 A I do.

10 Q -- department as well?

11 A I do. There are anywhere between three to
12 seven temporary employees that can be on or off,
13 depending on the election itself and the other duties of
14 the office.

15 Q Great. And about how many elections have you
16 run as the Hidalgo County Elections Administrator?

17 A I didn't go back to check. But when I did my
18 report a couple of years ago, it was over 200, so I'm
19 sure it's somewhere around there.

20 Q Okay. So let me ask you this then: How long
21 have you been in your current role?

22 A September 2nd will be 14 years. So not quite
23 14, but right around the corner.

24 Q And what did you do before then?

25 A I was actually in education. I had just

1 started a school that summer as secondhand to a
2 principal. That school was supposed to be mine as
3 principal one day, and that's how she hired me on. So I
4 was working in education.

5 Q And what made you decide to go from education
6 to elections administration?

7 A Truly, that is a story all on its own,
8 honestly.

9 Q Sure.

10 A My prayer is always where do you need me, Lord,
11 and this is where I ended up.

12 Q Understood. Does your office have a mission
13 statement?

14 A No, we don't.

15 Q Would you say that helping people register to
16 vote is part of your office's objectives?

17 A Yes.

18 Q Would you say that making voting more
19 accessible is part of your office's objectives?

20 A Yes.

21 Q And would you say that ensuring eligible voters
22 are able to cast a ballot as part of your office's
23 objectives?

24 A Yes.

25 Q And how does the -- you mentioned this a second

1 ago, but can you just explain how your office interacts
2 with the Secretary of State's office on a day-to-day
3 basis?

4 A The Secretary of State's office has always been
5 our I think number one support system. We look to them
6 for guidance. We look to them for instructions when
7 something changes, when something is new. We wait
8 anxiously for them to guide us.

9 And so, of course, they interpret the
10 election code. So whenever there is a question, that's
11 who we call firsthand.

12 So without them, I don't know what we
13 would do because they are truly our support.

14 Q And who in the Secretary of State's office do
15 you generally contact with questions about an election?

16 A Well, I am part of the advisory committee that
17 was formed in 2020. There are 27 counties that were
18 asked to represent the State.

19 And so we're usually talking with Keith
20 Ingram and Christina Adkins.

21 But, of course, dialing the 1-800 number,
22 and you hit number 3, any of the legal attorneys that
23 answer, we work with all of them.

24 Q Okay. What is this advisory committee that you
25 just mentioned?

1 Q So are you familiar with this provision --

2 A I am.

3 Q -- of Senate Bill 1?

4 A Yes.

5 Q And what is your understanding of what it
6 requires?

7 A Our Senate Bill 1 made the authority of a poll
8 watcher very specific in the actual law.

9 What I mean by that is that we've always
10 had poll watchers, and we've always accepted them. And
11 I trained that part of the training to our poll judges
12 and our clerks.

13 And for us, we welcome poll watchers.
14 Why? Because it's a necessary part of the election for
15 candidates to be able to view and see that the process
16 is going well.

17 What we've seen is the change for us came
18 when a poll watcher was to direct himself or herself to
19 our judge.

20 And this law now allowed them to go
21 straight to a clerk, for example, and possibly interrupt
22 the process that was happening at that time.

23 And so that was -- that was something that
24 I really did talk to our judges and clerks about that,
25 and just made sure that the respect was there, because

1 when respect is there, then everything will be fine.

2 And in 2022, this primary, everything went
3 well. I can't say surprisingly because I wasn't sure.

4 Possibly some of our judges didn't come to
5 help us because they feared that something could go
6 wrong and -- no, everything went well.

7 So just making it very specific and giving
8 them more authority is what changed mainly for us.

9 Q Okay. And that's great to hear that everything
10 went well. And I think I will have more questions about
11 poll watchers and the March primary in a bit.

12 I just want to ask a couple of follow-ups
13 about your answers.

14 First, you had mentioned that there was
15 some concern that poll watchers would interrupt the
16 process, I think is the quote that you just made?

17 A Yes.

18 Q What do you mean by "interrupt the process"?

19 A For example, in 2020, when -- because the oath
20 that a poll watcher takes, I reviewed all the oaths
21 together in preparation for this, and it was interesting
22 to see that the oath of a poll watcher is that, I will
23 not disrupt the voting process, and I will not harass
24 voters. This is actually the oath that they need to
25 take.

1 And in retrospect back to 2020, when a,
2 for example, poll worker was checking on a voter,
3 disrupting the process would be that a poll watcher
4 would come and say, tell me what you're doing, or how is
5 it you're not doing this right, or something that
6 perhaps before it wasn't allowed.

7 At that point, the poll watcher, if he or
8 she felt something was not correctly done, would go to
9 the judge, and they would be observers of the process,
10 which was fine. But they would direct themselves to the
11 judge.

12 At this point, if the judge were to
13 observe something not being done correctly, then that
14 judge would go and correct the process, if need be.

15 Well, now that poll watcher has the
16 authority to go directly to the worker that they want to
17 question or make a comment on.

18 And that can be difficult if you're in the
19 middle of trying to check, you know, a voter, a
20 potential voter.

21 Q Right. And so if -- is your understanding that
22 if a poll watcher goes to an election worker while
23 they're trying to check on a voter and sort of
24 interrupts the process, as you just mentioned, could
25 that lead to longer wait times for voters?

1 MR. HERBERT: Objection, form.

2 A It could, it could, depending on what their
3 observation is and and how it's taken care of.

4 The Senate Bill 1 does allow the clerk to
5 turn the responsibility back over to the judge, which is
6 good.

7 At that point, then it can no longer go
8 back to the clerk. And so, once again, the judge would
9 be the person who would take care of something the clerk
10 would not be able to handle.

11 Q (BY MR. WHITE) Okay. And I was going to ask
12 about this later on, but since you mentioned it, you had
13 said that you did part of a training relating to poll
14 watchers?

15 A I did.

16 Q If I understand you correctly?

17 What did that training entail?

18 A The law. We always start all our trainings,
19 the processes are always to start off with the law. The
20 kind of election that they're having and then -- and the
21 changes of the law.

22 In this case, of course, a poll watcher
23 where if they were -- if a clerk were to be interrupted
24 or they were to have a question asked upon them, that
25 would be allowed.

1 And so we needed to be clear that they
2 needed to allow this if this were to happen.

3 Q And who conducted this training? Did you do it
4 yourself?

5 A I did.

6 Q Did anybody else assist you?

7 A I did the training myself of all the workers.

8 Q And when you were explaining the meaning of the
9 law to them, how did you prepare to explain that?

10 A Pretty much we read the law to them. And, of
11 course, we use the guidance from the Secretary of
12 State's office because they did, by then, give us some
13 PowerPoint presentations that were very clear.

14 And so I actually used this as part of my
15 presentation. And that's usually our protocol.

16 Whenever we are going to train poll
17 workers, we do abide by the -- whether it's poll worker
18 training or the election day training, whatever it may
19 be, from the Secretary of State's office, they always
20 provide that training guidance. And so that's what
21 mainly I used.

22 Q Okay. So the Secretary of State's guide --
23 sorry. Strike that.

24 So you rely on the guidance from the
25 Secretary of State's office to clarify ambiguous terms

1 There are specific -- and I don't know if
2 it's further down where -- I did have to talk to our
3 poll judges because it specifically said, when the voter
4 brings in his or her assistant, then the poll watcher
5 may not observe. But when the election clerks are
6 assisting, the poll watcher may observe.

7 So that changes the free movement,
8 depending on who is assisting the voter.

9 So that to me right there is something
10 that our judges needed to understand as well.

11 Q During the training that you provided to your
12 judges, did anybody ask about the meaning of this
13 language?

14 A When I had it up on the screen, I think it's
15 something that we discussed, and so I'm trying to think
16 you if anyone had a question. I don't recall.

17 Q Does this provision allow poll watchers to
18 follow voters anywhere in the polling place?

19 MR. HERBERT: Objection, form.

20 A It does.

21 THE REPORTER: I'm sorry. I didn't get
22 the answer.

23 THE WITNESS: It does.

24 Q (BY MR. WHITE) Does it allow poll watchers to
25 stand near a voter when they mark a ballot?

1 MR. HERBERT: Objection, form.

2 A And, again, if the assistant -- if the voter is
3 by himself or herself, they don't have the authority to
4 stand so near that they can see how a voter marks his or
5 her ballot. I'm voting. This is me.

6 The Senate bill addresses when a voter has
7 an assistant. Once again, if I bring my own assistant,
8 you have to stay away as a poll watcher.

9 But when the poll workers are assisting --
10 and on election there has to be two, on early vote
11 there's one poll worker -- then the poll watcher has a
12 right to stand near enough to be able to hear that the
13 instructions given are correctly being given and
14 correctly.

15 Q So that brings me to my next question. So
16 Subsection F says -- and I'll just read it out loud for
17 the record.

18 "In this code, a watcher who is entitled
19 to observe an election activity is entitled to sit or
20 stand near enough to see and hear the activity."

21 How close does this provision allow for
22 watchers to get to the activity that's being referenced
23 here?

24 MR. HERBERT: Objection, form.

25 MS. RAMIREZ: Objection, form.

1 A It doesn't give us an exact 2 feet, for
2 example.

3 I think it's all on an individual basis.
4 If I was the poll watcher, I would have to be close
5 enough because I am a little bit hard of hearing.
6 Versus someone who doesn't have that.

7 So I think this is something that needs to
8 be just respected into the need of everyone there.

9 Q (BY MR. WHITE) Did you receive any guidance
10 from the Secretary of State's office about how close
11 poll watchers are allowed to get near voters or other
12 activity?

13 MR. HERBERT: Objection, form.

14 A No. Basically, it was written as it is in the
15 law. And I think at that time -- we haven't discussed
16 it again, it was so much I don't think anyone had any
17 specific questions. I don't know if anyone has
18 questioned them since then, but I haven't.

19 Q (BY MR. WHITE) Got it.

20 And if you could flip to the next page, to
21 page 29, we'll take a look at Section 4.09. And just
22 take a second to read 4.09 to yourself. That's from
23 lines 2 to 11.

24 A Yes.

25 Q So are you familiar with this new provision of

1 Senate Bill 1?

2 A I am.

3 Q And what's your understanding of what this
4 section is?

5 A My understanding would -- I guess I would give
6 an example. If someone is trying to observe a voter and
7 the clerk stands right in front of the poll watcher and
8 is obstructing the view, that's not allowed. The poll
9 watcher must be able to view clearly what is happening
10 and not have anything.

11 I don't -- you know, we've heard of other
12 counties that maybe didn't have -- had a small window
13 and poll watchers would just stand outside the window.
14 And so there were so many poll watchers, you know, you
15 couldn't really see.

16 We haven't had any of that issue. Our
17 poll watchers are in the room along with the ballot
18 board or the polling location.

19 And sometimes there could be obstruction
20 in a vehicle because of the nature of how they're
21 voting. You know, not everyone can be at the window
22 peering in.

23 So the judge has to have command of that
24 and has to understand and be respectful of everyone's
25 needs.

1 direct them to -- for the voter to read the ballot, for
2 the voter to mark the ballot.

3 So they're there to assist the voter as
4 the voter necessitates, the need.

5 Q Are there any policies and procedures that
6 you've had to implement in response these changes to the
7 oath?

8 A We've not. I mean, the fact that it's added
9 the verbiage to what we've always been -- we've always
10 had, which we are not here to coerce or influence the
11 voter in any way.

12 So reading the ballot, marking the ballot,
13 perhaps translating -- if the voter is -- is with an
14 English ballot and maybe doesn't understand a term, we
15 are not to give explanations of any kind. We've never
16 been allowed to do that.

17 We can perhaps translate the word, if need
18 be. But what does that mean? It's not part of what we
19 should be doing. Because now it becomes subjective.
20 Now it becomes my interpretation. And that's not what
21 we're allowed to do.

22 Q Are there any interests of Hidalgo County that
23 are served by these changes to the oath?

24 MR. HERBERT: Objection, form.

25 MS. RAMIREZ: Objection, form.

1 A No.

2 Q (BY MR. WHITE) All right. And the last
3 provision I just want to ask you about is Section 7.04
4 on page -- at the very bottom of page 58 and continuing
5 on to page 59.

6 If you wouldn't mind taking a second to
7 read through that. Actually I'll just say I think on
8 page 59 you can just read lines 1 through 10. I think
9 this goes on for a few pages.

10 A Okay.

11 Q Are you familiar with this provision of Senate
12 Bill 1?

13 A Yes.

14 Q And what does this provision do?

15 A It outlines again that a person cannot and
16 should not be compensated for assisting voters if they
17 are, in turn, then benefiting from that assistance.

18 Q Has this provision changed anything that you do
19 as an elections administrator?

20 A No.

21 Q Are there are any new policies and procedures
22 that you've had to implement in response to this
23 provision?

24 A Not yet, no.

25 Q Are there any interests of Hidalgo County that

1 are served by this provision?

2 MR. HERBERT: Objection, form.

3 MS. RAMIREZ: Objection, form.

4 A No.

5 MR. WHITE: Okay. I think now would be a
6 good time for a break. We've been going for about
7 90 minutes. If that sounds good with everyone.

8 MS. RAMIREZ: Sure.

9 THE VIDEOGRAPHER: Going off the record.
10 The time is 10:26 a.m.

11 (Break taken.)

12 THE VIDEOGRAPHER: We are back on the
13 record. The time is 10:46 a.m.

14 Q (BY MR. WHITE) All right. Ms. Ramon, I wanted
15 to do jump back in by asking a few questions about
16 Senate Bill 1 as it was being enacted, as it was sort of
17 going through the website processing, your actions and
18 statements during that time.

19 Did you take a position on Senate Bill 1
20 as it was being considered by the Texas Legislature?

21 A I was trying to remember. I'm a past president
22 of the Texas Association of Elections Administrators.
23 And I was not president, of course, last year. And it's
24 already been maybe five years. So I was part of the
25 legislative committee. Because after president, you

1 become the legislative committee chair. So I was being
2 co-chair.

3 And I think my name was added to a letter
4 to the legislator about Senate Bill 1. But, honestly,
5 it was just the board that was added, and I don't really
6 recall what was on the letter.

7 Q Okay.

8 A The concerns that were outlined, I wouldn't be
9 able to tell you. But I do remember that one incident,
10 and I was fine with adding my name. I just don't recall
11 everything to do with that letter.

12 Q Sure. Do you know if this letter is something
13 that you produced in discovery in this case?

14 A I don't know. I don't know if I even have a
15 copy. I think I was asking if I even had a copy. But
16 I'm sure it's somewhere.

17 Q And you said you don't recall the specific
18 issues that were discussed in the letter. Do you
19 know -- are there any details that you can add that you
20 recall about the contents of the letter?

21 A There are because, you know, there were various
22 bills that we were trying to address and learn -- from
23 1598, of course, on the retrofitting of the equipment.
24 That was really going to affect a county like Hidalgo
25 County. And 11-11 with all the changes.

1 Q Understood.

2 And in offering that explanation, you
3 mentioned that before the poll workers will bring the
4 marking device outside, they qualify the voter. Can you
5 just explain what you mean by that?

6 A So a curbside voter drives up, whether this
7 person drives up or someone drives them up, the voter is
8 then identified.

9 The frist thing a voter must do is, of
10 course, hand over one of the seven forms of ID. If it's
11 not one of the seven forms of ID because they don't
12 possess one of them, then they are afforded an
13 opportunity to use a list B.

14 A list B goes hand-in-hand with what is
15 called a declaration of impediment. Once they turn in,
16 it could be any document that has their name and an
17 address.

18 Once they tell the clerk that they do not
19 possess one of the seven photo IDs, then they will
20 present -- it could be a telephone bill, a bank
21 statement, anything that has their name and an address.

22 Then the clerk himself or herself knows to
23 bring those documents inside, look for the voter,
24 qualify, make sure the voter qualifies to vote, and then
25 goes outside within the combination form where the voter

1 must sign, the marking device, which is called DRDO
2 now, and the paper ballot, which is blank, right?
3 Because when that is fed into the marking device, the
4 names appear, the voter is able to mark his or her
5 choices. And when that ballot comes back out, the
6 choices then are on this paper ballot.

7 Q Okay. I think I got that.

8 And you testified that Hidalgo County has
9 been doing curbside voting since you have been the
10 elections administrator?

11 A And before.

12 Q And before.

13 A Always. Because that was the law that was in
14 place. But what changed when I came on board is that we
15 made this ADA feature available to all poll locations.

16 So in the past, a voter would -- could not
17 go by themselves. A voter would have to bring someone
18 to run inside the poll location and tell someone, my
19 grandma is in the car, she wants to vote.

20 And I didn't like that. So we purchased,
21 in increments of ten, because they're very costly,
22 buzzers. So that if I wanted to go by myself, I drive
23 up, I buzz, and I park.

24 And that buzzer rings inside the poll
25 location, which alerts the group that there is someone

1 outside ready to vote.

2 Q Got it. Okay.

3 Are you aware of any instances in Hidalgo
4 County where somebody committed voter fraud using
5 curbside voting?

6 MR. HERBERT: Objection, form.

7 MS. RAMIREZ: Objection, form.

8 A I am not.

9 Q (BY MR. WHITE) In your opinion as an elections
10 administrator, is curbside voting more likely to lead to
11 voter fraud?

12 MR. HERBERT: Objection, form.

13 MS. RAMIREZ: Objection, form.

14 A I could not speculate on that. Voting is
15 voting. The voter is clearly qualified before voting.

16 Q (BY MR. WHITE) And you mentioned -- you
17 testified earlier that in addition to doing the curbside
18 voting that you just discussed, that Hidalgo County also
19 does curbside dropoff voting; is that correct?

20 A That's new at the main office.

21 Q I'm sorry?

22 A At the main office. Because of 2020 with the
23 COVID and what have you, we have to drop off at the main
24 election office on election day.

25 Q Okay. And can you walk me through the steps of

1 how a voter will cast a ballot through curbside dropoff
2 voting?

3 A So the voter must have their ballot in hand,
4 which would be in a carrier. This voter has already
5 gone through the process of the application being
6 accepted, and a ballot has been sent to them in a kit,
7 which has various envelopes and identification.

8 Once the voter marks his or her ballot,
9 puts it into the security envelope, puts it into the
10 carrier envelope, now that voter is supposed to mail it
11 back.

12 Well, the law allows that voter who didn't
13 mail it back to himself or herself bring it to the main
14 election office and turn it in on election day.

15 We do know, and you'll probably ask, that
16 in 2020 changed, but the law for all purposes allows you
17 to do this on election day.

18 So you wanted me to explain the curbside.

19 So a voter has the capability of walking
20 this in. And we do have voters that walk in, turn it
21 in. We have a ballot dropoff area.

22 And, of course, the person in front is
23 instructed to have them -- well, actually, what they do
24 is they're instructed to have one of the clerks from the
25 ballot division come, and they see the ID, because they

1 hours every day for almost, what is it, 11 days our
2 voters, we felt, were very well-served.

3 Q So did you discuss the issue at all during the
4 2020 election of implementing 24-hour voting?

5 A No.

6 MR. HERBERT: Objection, form.

7 Q (BY MR. WHITE) Okay. And are you aware that
8 other Texas counties offered 24-hour voting during the
9 2020 election?

10 A I am.

11 Q Did the availability of extended voting
12 hours -- or sorry, strike that.

13 A No.

14 Q Did the availability of 24-hour voting in other
15 counties affect your office in any way?

16 A No.

17 MR. HERBERT: Objection, form.

18 Q (BY MR. WHITE) Did voters call your office and
19 ask about the availability of 24-hour voting during the
20 2020 election?

21 A No.

22 Q In the 2020 election, are you aware of voters
23 not being able to cast a ballot because a polling place
24 closed before they got there?

25 A I'm not aware.

1 Q Are any such instances reported to your office?

2 A No. Our community is pretty much set, 7:00 to
3 7:00. They know that if they're in line at 7:00, it
4 doesn't mean they're on the machine at 7:00. That means
5 that they are able to stay in line. If they're in line
6 at 7:00 then they're able to cast their vote.

7 Q I'm sorry. My question was: If voters do
8 complain about not being able to cast a vote in time by
9 the time they show up, did your office receive
10 complaints?

11 A No. Not that I'm aware of.

12 Q Has Hidalgo County ever had polling sites that
13 last -- sorry.

14 Has Hidalgo County ever had lines that at
15 points that last beyond the points size close?

16 A Yes.

17 Q How often has this happened?

18 A The main early poll location, which is the one
19 near the office, which is considered the main early poll
20 location, it's called the Annex, usually has a line past
21 7:00. It didn't for this May 7th election because there
22 were no local races and it was the two constitutional
23 amendments, so they actually closed on time.

24 But that one location and then there is a
25 Lark Community Center in McAllen that is, again, neck to

1 neck with the Annex. Again, they didn't have any local
2 races on so they didn't have any issues this May 7th.
3 But usually the lines last after 7:00 as well.

4 Q Okay. And for the Annex -- I apologize if
5 you've already explained this, but can you just describe
6 what the Annex is and where it is?

7 A So the Annex is part of our main office in a
8 sense that it's the main early voting polling location.
9 That is where a voter who is limited voting -- limited
10 ballot voting, for example. They have to go to the main
11 early voting location. This is where they would go.

12 So that's the one tied to the office. And
13 so it's two blocks from our office. The voters -- its'
14 a very high voter turnout. It's a large election and
15 there is 10,000 votes there.

16 Maybe another location would have 30. So
17 it's a high turnout. So that's what the law mandates
18 that we deem one location in the early voting as the
19 main early location, and that's what the Annex is.

20 Q And you said it was close to your office?

21 A Yes.

22 Q I'm not from McAllen, excuse me, but where is
23 -- is it even in McAllen, I'm sorry?

24 A Yes. It's here in Edinburg, of course. It's
25 off of Closner. I don't remember the address right now.

1 Q Okay.

2 A But it's South Closner.

3 Q And you said that the Annex usually has long
4 lines. How long of lines are you talking about?

5 A Like how do you want me to describe it?

6 Q I guess, let's say, let's go election by
7 election. In the 2020 general election, do you know
8 what time voting had concluded at the Annex?

9 A If the polls close at 7:00, I'm sure they
10 stayed for another hour. They could stay for another
11 hour, if it's a large presidential, like 2020 was.

12 If it goes to a gubernatorial then --
13 another thing you have to consider are the local races
14 that are there as well.

15 So if you've got, for example, the city of
16 Edinburg or the school of Edinburg on the ballot in
17 November, which they run in opposite years, then the
18 local races also add to the long lines, because of the
19 local community voting. Although they can vote
20 anywhere, they'd like to go and vote there.

21 Q I see. So you think maybe about an hour and
22 during presidential years. Do you know how long the
23 lines were at the Annex during the March 2022 election?

24 A I don't -- I don't believe that they were as
25 long. Again, it's a gubernatorial. Let me see.

1 A A lot of people like it. I mean, you should
2 come visit us during a presidential.

3 Q I'd like to.

4 So just to sort of wrap up this section.
5 I have a couple of similar questions about whether you
6 had any communications with the Secretary of State's
7 office about provisions in SB1 relating to 24-hour
8 voting?

9 A No.

10 Q And did you have any communications with
11 members of the Texas Legislature about these provisions
12 as the bill was being debated?

13 A No.

14 Q Okay. Okay. The next area that I wanted to
15 just touch on briefly, and this partially overlaps what
16 we had covered earlier is about language in SB1 that
17 bans ballot drop boxes.

18 A Uh-huh.

19 Q Has Hidalgo County ever used ballot drop boxes
20 to allow people to return mail-in ballots? I know we
21 discussed that the curbside and dropoff voting, but
22 apart from that.

23 A No. We have always only had the one at the
24 main location.

25 Q And did you ever consider allowing for more

1 dropoff facilities?

2 A No.

3 Q And why not?

4 A We didn't -- we didn't see the need. Hidalgo
5 County is one of the top ten largest counties by
6 populations. But actually from east to west and north
7 to south, we're no more than 25 miles for a voter to
8 come. So we didn't see that there was a need for us to
9 man more locations, security and all that. So we
10 instead kept it to one.

11 Q Did you have discussions about whether to add
12 additional drop box locations during the 2020 election?

13 A I don't believe it ever came up. We just did
14 the one. Prepared well with the one. Made sure we had
15 enough help here at the main office, and we prepared for
16 that.

17 Q Do you have any reason to believe that ballot
18 drop boxes create an opportunity for voter fraud?

19 MS. RAMIREZ: Object to form.

20 A I don't.

21 Q (BY MR. WHITE) Are there any interests of
22 Hidalgo County that are served by the ban on ballot drop
23 boxes?

24 MR. HERBERT: Objection, form.

25 A No.

1 Q (BY MR. WHITE) And, again, did you have any
2 communications with the Secretary of State's office
3 about the provision in SB1 banning mail drop boxes?

4 A No.

5 Q Any communication with members of the Texas
6 Legislature about this provision?

7 A No.

8 MR. WHITE: Can we go off the record just
9 for a minute?

10 THE VIDEOGRAPHER: Going off the record.
11 The time is 11:42 a.m.

12 (Break taken.)

13 THE VIDEOGRAPHER: We're back on the
14 record. The time 11:57 a.m.

15 Q (BY MR. WHITE) So, Ms. Ramon, earlier we were
16 discussing the identification matching provisions for
17 mail-in ballots way back at the start of the deposition.
18 Do you recall that?

19 A Yes.

20 Q So I wanted to turn to that now and sort of
21 discuss how your office has implemented those provisions
22 during the March -- most recent primary and the
23 primaries that -- or the elections that we have underway
24 in May.

25 Can you explain again what the

1 A I'm trying to jump the gun. You have to also
2 remember it was redistricting and that we were doing a
3 massive mail-out, which is 357,000-plus cards that
4 needed to be printed and sent out.

5 Our vendor did tell us that once we did
6 ours, he had to turn others away because he didn't have
7 any more paper, no more paper in stock.

8 Q Do you know, on average, how many voters use
9 vote by mail in Hidalgo County during a primary
10 election?

11 A How many voters what?

12 Q Use vote by mail during a primary recollection
13 in Hidalgo County?

14 A For in general?

15 Q During a primary election.

16 A During a primary election. Vote by mail. I
17 didn't look at that figure. I just looked at the -- too
18 many -- too many percentages to remember.

19 Q Sure.

20 A I can tell you that during a primary, the
21 percentage of complete voter turnout would be anywhere
22 between 15 percent to 21, 22. Except 2016 had a little
23 higher turnout, 25. But usually it's anywhere between
24 15 to 21, 22 percent voter turnout. But too many -- to
25 many numbers to remember the breakdown.

1 Q Okay.

2 A In each category.

3 Q I have other questions that will be about
4 numbers, so hopefully I won't be over grueling in that
5 regard.

6 So during the March 2022 primary, we sort
7 of talked about some of the problems that were caused by
8 the identification matching provisions.

9 Is it fair to say that there were high
10 levels of rejection of mail-in ballot applications
11 compared to previous years?

12 MR. HERBERT: Objection, form.

13 A I did check that carefully, and definitely.
14 When we would have a rejection rate of 1 to 2 percent --
15 I think there was one year that we had a 2.2 -- we
16 actually had a 19 percent rejection rate in the March
17 2022.

18 Q (BY MR. WHITE) Okay. And I'm going to ask you
19 more specifics about those numbers in just a second.

20 The question I just asked is about whether
21 there were high levels of rejection of mail-in ballot
22 application. Were there also high levels of rejection
23 mail-in ballots --

24 A Yes.

25 Q -- compared to previous --

1 A Yes, I did check that as well for 2022. And,
2 again, the rejection rate of applications minimal,
3 again, 1 percent, 1 1/2 percent. And the applications
4 rejection rate in 2022 was 13 percent.

5 Q And so let's just focus for a second on the
6 applications. What were the reasons for some of these
7 rejection rates for applications?

8 A The majority was lack of ID.

9 Q When you say "lack of ID," do you mean a person
10 not listing an identification --

11 A Exactly.

12 Q -- on the mail-in application?

13 A Exactly. They were using the old form. Or if
14 they -- even if they used the new form, they didn't --
15 their eyes didn't gravitate to the right side, which was
16 a new area on the application that required the ID.

17 Q And when you say the majority of the problems
18 were caused by missing ID, is that a guess or --

19 A No, no. It is the majority. Because, again --
20 because a person submits an application doesn't mean
21 they qualify. So some are rejected because they don't
22 qualify. They don't meet the guidelines whether they're
23 not 65 and older and if they're -- they didn't check
24 disabled, they didn't check the primary. You have to
25 check Democrat or Republican, and some people don't. So

1 there were other reasons. But the majority of the
2 reasons were lack of ID.

3 Q Okay. And let's talk about some of the other
4 reasons for -- a ballot's rejected because the voter put
5 an incorrect ID on the application?

6 A The majority was lack of ID.

7 Q When you say lack of ID, do you mean a person
8 not listing an identification number on the application?

9 A Exactly. They were using the old form. Of
10 even if they used the new form, their eyes didn't
11 gravitate to the right side, which was a new area on the
12 application that required the ID.

13 Q And when you say the majority of the problems
14 were caused by missing ID, is that a guess or --

15 A No, it's the majority. Because, again, because
16 a person submits an application doesn't mean they
17 qualify. So some are rejected because they don't
18 qualify. They don't meet the guidelines set forth.
19 They're not 60 and older and they didn't check
20 "disabled," they didn't check -- you have to check
21 democratic or republican and some people don't. So
22 there were other reasons. But the majority of the
23 reasons were lack of ID.

24 Q And let's talk about some of the other reasons.
25 Were ballots rejected because the voter put an incorrect

1 ID number on the application?

2 A You know, we didn't track that. But when you
3 say "incorrect," remember what the law said.

4 The law said you had to match the ID back
5 to the voter record when they registered.

6 So here we go again, if I put my driver's
7 license, but I registered with my social.

8 Q Right. Yeah. And so that's what I meant by
9 incorrect information. So you say you don't know
10 exactly how many ballots were rejected -- how many
11 applications were rejected because of mismatch?

12 A We didn't track that, no.

13 Q Okay. And were any ballots -- or excuse me.
14 Were any applications rejected because of small prints
15 on the application form or not being able to --

16 A No.

17 Q Okay.

18 MR. WHITE: Can we go off the record for a
19 second?

20 THE VIDEOGRAPHER: Going off the record.
21 Time is 12:26 p.m.

22 (Lunch recess.)

23 THE VIDEOGRAPHER: We're back on the
24 record. The time is 1:17 p.m.

25 Q (BY MR. WHITE) Ms. Ramon, welcome back.

1 A Thank you.

2 Q Before we went on a lunch break, we were
3 talking about the mail-in ballots provisions for SB1 and
4 some of the problems that had caused during the
5 March 2022 primary election.

6 And one line of question that we had
7 discussed were the efforts that your office had taken to
8 reach out to the voters in the event that they omitted
9 something from the ID application -- or excuse me, from
10 a mail-in application.

11 And the follow-up question on that I have
12 is what efforts your office took to help people cure any
13 defects in their ballots?

14 A So the application for ballot by mail could be
15 not cured but corrected in two ways.

16 It could -- my office reached out when
17 there was a phone number to call.

18 My office sent the application back with
19 the corrected form that was provided to from the State.
20 They had to create a new form to correct the ballot.

21 And actually, I said two, but there were
22 three ways, because they could also correct an ID on the
23 ballot tracker.

24 So the application for ballot by mail
25 could be corrected on the ballot tracker if it was to

Attachment 11

Michael Scarpello April 29, 2022 Deposition Excerpts

Transcript of the Testimony of
The Office of the Dallas County Elections Administrator

Date:

April 29, 2022

Case:

LA UNION DEL PUEBLO ENTERO vs GREGORY W. ABBOTT

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF TEXAS
 3 SAN ANTONIO DIVISION

3 LA UNION DEL PUEBLO ENTERO,)(
 ET AL.,)(
 4)(
 PLAINTIFFS,)(
 5)(CIVIL ACTION
 VS.)(NO. SA-21-CV-00844-XR
 6)(
 GREGORY W. ABBOTT, ET AL.,)(
 7)(
 8 DEFENDANTS.)(

9
 10 VIDEOTAPED AND VIDEOCONFERENCED
 ORAL DEPOSITION OF
 11 RIVELINO LOPEZ, TACOMA PHILLIPS
 AND MICHAEL SCARPELLO
 12 APRIL 29, 2022

13 VIDEOTAPED AND VIDEOCONFERENCED ORAL DEPOSITION
 14 OF RIVELINO LOPEZ, TACOMA PHILLIPS AND MICHAEL
 15 SCARPELLO, produced as witnesses at the instance of the
 16 Plaintiff LUPE, and duly sworn, was taken in the
 17 above-styled and numbered cause on the 29th day of
 18 April, 2022, from 10:47 a.m. to 8:02 p.m., before Holly
 19 R. Swinford, CSR in and for the State of Texas, reported
 20 by machine shorthand, at the Office of the Dallas
 21 Elections Administrator, located at the Records
 22 Building, 500 Elm Street, 7th Floor, Room 7Y11, in the
 23 City of Dallas, County of Dallas, State of Texas,
 24 pursuant to Notice, the Federal Rules, and the
 25 provisions stated on the record or attached hereto.

1 MS. HUNKER: That's all.

2 MS. PERALES: Let's go off the record.

3 MR. SCHUETTE: Do we need to ask the
4 assembled --

5 MS. PERALES: Assembled people on Zoom,
6 are we ready to go off the record?

7 MS. BENDER: No questions. Thank you.

8 MS. PERALES: That was Brady.

9 THE VIDEOGRAPHER: We're going off the
10 record. The time is 3:07 p.m.

11 (Lunch recess.)

12 THE VIDEOGRAPHER: Okay. We are back on
13 the record. The time is 4:17 p.m.

14 MS. PERALES: I think we are ready to
15 swear the witness.

16 THE REPORTER: Okay.

17 Sir, would you raise your right hand,
18 please?

19 (Witness sworn by the court reporter.)

20 THE REPORTER: Thank you.

21 MICHAEL SCARPELLO,
22 having being first duly sworn, testified as follows:

23 EXAMINATION

24 BY MS. PERALES:

25 Q. Good afternoon.

1 ago and did a quick read through SB 1.

2 Q. I'm not sure it's even possible to do a quick
3 read of such --

4 A. Right.

5 Q. -- a long document.

6 A. Uh-huh.

7 Q. But let me promise you that if we talk about
8 any part of SB 1 today, we'll mark the bill and --

9 A. Okay.

10 Q. -- go through it together.

11 Did you meet with your attorneys in order to
12 prepare for this deposition?

13 A. Yes.

14 Q. And did you meet with or talk to anybody from
15 the Attorney General's Office of Texas to prepare for
16 this --

17 A. No.

18 Q. -- deposition?

19 Did you have an opportunity to review documents
20 that were produced to us this morning?

21 A. I did not get a chance to review those.

22 Q. Okay. If we discuss any of them, we'll be sure
23 to mark it so you can have it in front of you before we
24 ask questions.

25 A. You bet.

1 MS. PERALES: If you wouldn't mind handing

2 Exhibit 1 to the witness.

3 (Document handed to the witness.)

4 Q. Mr. Scarpello, do you recognize Exhibit 1 as
5 the Notice of Deposition for today's deposition?

6 A. Yes.

7 Q. And if you flip forward, you'll see around Page
8 9, there is an Attachment A; and then on Page 12 begins
9 a list of topics?

10 A. Yes.

11 Q. Have you seen these topics before?

12 A. Yes.

13 Q. Do you understand that you are testifying
14 pursuant to this Notice today?

15 A. Yes.

16 MS. PERALES: And if you wouldn't mind
17 handing the witness Exhibit 2.

18 (Document handed to the witness.)

19 Q. Have you seen this document, Exhibit 2?

20 A. Yes.

21 Q. And do you see your name on the chart as being
22 the witness designated for certain topics?

23 A. Yes.

24 Q. Are you prepared to talk about those topics --

25 A. Yes.

1 Q. -- today?

2 Do you understand that because this is a

3 30(b)(6) deposition --

4 A. Uh-huh.

5 Q. -- as we call it --

6 A. (Witness moves head up and down.)

7 Q. -- that when you're testifying that you are

8 speaking on behalf of the Elections Department?

9 A. Yes.

10 Q. Okay. And so if I say "you" or "yours," will

11 you understand that I'm referring to your department?

12 A. Yes.

13 Q. Are you from Dallas County originally?

14 A. No.

15 Q. Where were you -- where did you grow up?

16 A. Omaha, Nebraska.

17 Q. When did you come to Dallas County?

18 A. December of 2020.

19 Q. Did you graduate high school in Omaha?

20 A. Yes, Cathedral High School.

21 Q. Sounds Catholic.

22 A. Yes.

23 Q. And did you do any schooling after you

24 graduated from high school?

25 A. I went to the University of Nebraska at Omaha

1 and graduated there in 1991 and then the University of
2 Nebraska, College of Law in Lincoln in 1995.

3 Q. The same year my husband graduated from law
4 school.

5 Did you do any other degrees or other study
6 besides what you've described to me?

7 A. Only things related to elections, cer- --
8 certificates --

9 Q. Okay.

10 A. Certified Election & Registration Administrator
11 from Election Center.

12 Q. And before you came to Dallas -- oh, so you
13 came to Dallas County in December 2020.

14 Was that when you took the job as Election
15 Administrator?

16 A. Yes.

17 Q. Okay. So prior to that, December 2020, what
18 job did you have?

19 A. Prior to that, I was the Vice-President of
20 Voter -- of Election Management Systems for Runbeck
21 Election Services.

22 Q. And tell me what Runbeck Election Services
23 does.

24 A. The majority of their business is they're an
25 election ballot printer, and then they're -- they delve

1 into certain areas like voter registration or election
2 management systems.

3 Q. Would they be considered, for example, a vendor
4 for a county to maintain its voter registration rolls?

5 A. They aren't -- currently have no accounts to do
6 that. They are trying to become that.

7 Q. Okay. And you are the VP of Election --

8 A. Election Management --

9 Q. Management.

10 A. -- Systems. It's, basically, a voter
11 registration system.

12 Q. And is Runbeck a -- like, would you call it a
13 software company or it's software plus kind of
14 management?

15 A. I'd say they are a mail ballot -- mail ballot
16 service provider that dabbles in other areas of election
17 services.

18 Q. Does Runbeck have contracts in Texas or did at
19 the time you were there?

20 A. The only ones that I know of is there -- they
21 have -- in Harris County and in Dallas County, they
22 have -- they sold a mail ballot sorter, an Agilis mail
23 ballot sorter.

24 Q. Was that a piece of hardware?

25 A. Yes.

1 Q. Where are most of Runbeck's clients, then,
2 physically located?

3 A. Throughout the country,

4 Q. Okay.

5 A. All around the country.

6 Q. How long did you serve as VP of Election
7 Management for Runbeck?

8 A. About a year and a half.

9 Q. And what did you do before that?

10 A. I was the Registrar of Voters for San
11 Bernardino, California.

12 Q. How long did you do that job?

13 A. About seven years, three -- seven years, four
14 months, something like that.

15 Q. And what job did you have before that?

16 A. I was the Director of Elections for the City
17 and County of Denver, Colorado.

18 Q. How long did you do that job?

19 A. About four years.

20 Q. That's a beautiful place to live.

21 A. It sure is.

22 Q. And before that job, what were you doing?

23 A. I was the Elections Manager for Douglas County,
24 Nebraska. Omaha, Nebraska.

25 Q. Douglas County produces a disproportionately

1 high number of really good elections people because I
2 took the deposition of Lisa Wise a couple --

3 A. Uh-huh.

4 Q. -- of weeks ago. She's also from Douglas
5 County.

6 A. Uh-huh. She worked with me.

7 Q. Oh, so you were --

8 A. Uh-huh.

9 Q. You were at that office at the same time?

10 A. For a brief time, yeah.

11 Q. Okay. So if we were to sort of add up the
12 years that you've been involved in administration of
13 either elections or voter registration, what would the
14 sum total number of years be?

15 A. Twenty-two and a half years.

16 Q. And it's fair to say that prior to December
17 2020, when you came here to Dallas, that you had
18 experience, hands-on experience, administering both
19 registration and voting; is that right?

20 A. That's correct.

21 Q. What is your current title?

22 A. I'm the Elections Administrator for Dallas
23 County.

24 Q. Is Dallas County the largest jurisdiction where
25 you've worked on election administration?

1 A. It has the largest number of registered voters,
2 yes, not the largest in physical area.

3 Q. So having lived in Dallas County for about a
4 year and a half --

5 A. Uh-huh.

6 Q. -- would you agree with me that Dallas County
7 has a substantial Latino or Hispanic population?

8 A. Yes.

9 Q. And would you agree with me that Dallas County
10 has a substantial black or African-American population?

11 A. Yes.

12 Q. And would you agree with me that Dallas County
13 has a substantial number of voters who are -- for whom
14 English is not their first language and who might
15 experience some barriers communicating in English?

16 MS. HUNKER: Objection, form.

17 A. I don't know. It depends on how you define
18 "substantial." They are certainly large enough to
19 re- -- trigger the SO- -- or the Department of Labor's
20 five-percent rule, to require us to provide alternate
21 language services to Vietnamese and Spanish speakers.

22 Q. (By Ms. Perales) And we talked a little bit
23 earlier today -- I don't think you were here -- that
24 Dallas County is newly covered for Vietnamese.

25 A. That's correct.

1 language to the assistor oath, quote, the voter I am
2 assisting represented to me they are eligible to receive
3 assistance --

4 A. Yes.

5 Q. -- unquote?

6 A. Yes.

7 Q. And then on Line 2, there is some new language
8 added related to the assistor confining assistance.

9 Do you see that?

10 A. Yes.

11 Q. And would you agree with me that SB 1 adds the
12 following language to confining assistance: quote,
13 reading the ballot to the voter, directing the voter to
14 read the ballot, marking the voter's ballot, or
15 directing the voter to mark the ballot, unquote?

16 A. Yes.

17 Q. All right. And will you agree with me that
18 those are four specific acts?

19 A. Yes.

20 Q. Now, will you agree with me on Line 5 -- and I
21 think you may have been talking about this a little
22 while ago -- that SB 1 removes from the assistor oath
23 that the assistor will confine assistance to, quote,
24 answering the voter's questions, unquote?

25 A. Yes.

1 Q. Okay. And then there's some additional
2 language that's also coming out of the assistor oath,
3 such as stating propositions on the ballot, naming
4 candidates and their political parties?

5 A. Yes.

6 Q. Okay. Will you agree with me that, starting on
7 Line 7, that the SB 1 adds to the assistor oath, quote,
8 I did not pressure or coerce the voter into choosing me
9 to provide assistance, unquote?

10 A. Yes.

11 Q. And then, finally, on Line 12, do you agree
12 with me that SB 1 adds the language after the semicolon,
13 quote, and I understand that if assistance is provided
14 to a voter who is not eligible for assistance, the
15 voter's ballot may not be counted, unquote?

16 A. Yes.

17 Q. Would you agree with me that, now that the
18 assistor is signing the oath under penalty of perjury,
19 that the assistor would face a perjury prosecution for
20 lying or not doing what the oath says a person will do?

21 MS. HUNKER: Objection to form.

22 A. Can you repeat the question?

23 Q. (By Ms. Perales) Sure. I'll ask a better
24 question.

25 A. Okay.

1 Q. Do you think that an assistor, looking at this
2 new oath, would want to make sure, because the assistor
3 is signing under penal of perjury, that they follow
4 the -- the commands of the oath very closely?

5 A. Yes. I think it --

6 MS. HUNKER: Objection, form.

7 A. I think anyone who signs under penalty of
8 perjury considers they're -- that -- that it's a serious
9 business, so...

10 Q. And perjury is a crime, is it not?

11 A. Yes.

12 Q. So taking the first language that I reviewed
13 with you, if an assistor wants to make sure they comply
14 with the oath closely, how will the assistor obtain a
15 representation from the voter that the voter is eligible
16 to receive assistance?

17 A. Give me a second. I'm not sure, other than the
18 oral representation -- oral or written representation
19 from the voter that they qualify.

20 Q. Okay. So to secure an oral representation, the
21 assistor would ask the voter; and then the voter would
22 have to make that representation, correct?

23 A. Yes.

24 Q. Okay.

25 MS. PERALES: I'm going to mark two more

1 exhibits.

2 What number is this?

3 THE REPORTER: It's 5.

4 (Deposition Exhibit Number 5 marked.)

5 MS. PERALES: This will be 6 (handing).

6 THE REPORTER: Okay.

7 (Deposition Exhibit Number 6 marked.)

8 (Documents handed to the witness and Counsel.)

9 MR. SCHUETTE: Thank you.

10 MS. HUNKER: Thank you.

11 Q. (By Ms. Perales) The court reporter has handed
12 you what has been marked Deposition Exhibit Number 5 and
13 Deposition Exhibit Number 6, and I thought it might just
14 be a little bit easier for us to go through the oaths.

15 So I will ask you first, with respect to
16 Exhibit 5, do you see in the upper left-hand corner, the
17 language prescribed by the Secretary of State?

18 A. Yes.

19 Q. And then, in that little section there at the
20 bottom, 9, slash, 13 --

21 A. Yes.

22 Q. Okay. Now, if you look at the oath, you'll
23 notice it does not have the language about penalty of
24 perjury or securing a representation from the voter.

25 Do you see that?

1 Q. I have seen some alarmed expressions, so I want
2 to explore with you more the confining of assistance.

3 Do you -- do you understand the oath now to
4 foreclose an assistor from explaining to the voter how
5 to use the voting machine aside from pointing out
6 anything that might be on the screen, itself, in terms
7 of instructions?

8 MS. HUNKER: Objection to form.

9 A. I believe the -- I believe the language would
10 be liberal enough to allow them to assist that voter in
11 how to mark that because it says "marking the voter's
12 ballot," one of them.

13 Q. (By Ms. Perales) So if the -- the assistor
14 could mark the ballot for the voter at the voter's
15 request?

16 A. (Witness moves head up and down.) That's my
17 interpretation in reading the -- the plain language of
18 this, this oath.

19 Q. Okay. If the voter had a question of the
20 assistor about what to do with the piece of paper, in
21 terms of putting it in the tabulator and that question
22 was not answered by reading the ballot, do you
23 understand the oath to foreclose the assistor's
24 explanation of the fact that this piece of paper is
25 going to come out of the machine and then must be

1 reviewed and taken over and placed inside the tabulator?

2 A. I'm sorry. This is really difficult to read;
3 it's so small.

4 Q. (Moving head up and down.)

5 A. I would agree that the language could be
6 interpretated -- interpreted to be so narrow in -- in
7 its scope, that it would foreclose letting some -- you
8 know, telling -- assisting someone in dropping that into
9 the vote tabulator.

10 Q. With an explanation about what to do?

11 A. Yes.

12 Q. Okay. Would you agree with me that the Oath of
13 Assistance does not include the criteria for who is
14 eligible for assistance?

15 MS. HUNKER: Objection, form.

16 A. Yes.

17 Q. (By Ms. Perales) I want to ask you about the
18 language on Line 3. I did not pressure -- use of the
19 term "pressure" -- the voter into choosing.

20 Would you agree with me that the Oath of
21 Assistance does not include a definition of "pressure"?

22 A. Yes.

23 MS. HUNKER: Objection, form.

24 Q. (By Ms. Perales) If a -- if someone called
25 your office and asked you if it was okay to remind his

1 neighbor for three days in a row, during Early Voting,
2 that it was coming up and he was available to assist --
3 if someone called and asked you, "If I remind that voter
4 three times that I'm available to assist them, is that
5 pressuring," how would you answer that question?

6 MS. HUNKER: Objection to form.

7 A. We don't provide legal advice. But I would
8 state -- I'll just leave it at that. We don't provide
9 legal advice.

10 Q. (By Ms. Perales) Okay. Would it also be fair
11 to say that you wouldn't have a definition of "pressure"
12 in this context to fall back on?

13 A. That's correct.

14 Q. One more question about confining assistance to
15 the four specific actions.

16 A. Uh-huh.

17 Q. If a voter wants -- okay. Let me -- let me ask
18 it this way.

19 Do you have a Spanish-speaking poll worker at
20 every single polling place in Dallas County?

21 A. That is our goal, to have one. We don't always
22 have one, but we have a substantial number.

23 Q. And then let me ask the same question for your
24 new language, Vietnamese.

25 A. Uh-huh.

1 Q. Are you aiming to try to have a Vietnamese
2 speaker in every polling place or certain polling
3 places?

4 A. It usually takes a while to establish a network
5 of poll workers to be in every location. So what we
6 will do, initially, is to -- to focus on those areas of
7 the county where there's high concentrations of
8 Vietnamese speakers and then grow that; but the goal --
9 with the goal to have one in every location.

10 Q. Okay. Thank you. So let's pick a situation in
11 which the voter speaks a language and only that
12 language --

13 A. Uh-huh.

14 Q. -- and it's not English, so the voter is
15 limited English proficient and this particular polling
16 place does not have an election judge or a poll worker
17 who speaks this language --

18 A. Uh-huh.

19 Q. -- so the voter comes in with an assistor to
20 help -- help the voter.

21 A. Uh-huh.

22 Q. Would you agree with me that helping the voter
23 communicate with the poll workers and the election judge
24 is outside the scope of the four specific actions: read
25 the ballot, mark the ballot, direct the voter to read

1 the ballot, direct the voter to mark the ballot?

2 MS. HUNKER: Objection, form.

3 A. I think -- I think that you could -- you could
4 interpret that -- that some of the language of those
5 four pieces, in a very narrow way; and that would
6 prevent that. And I think you could read it in a more
7 liberal way that would allow that and, in particular, or
8 you know -- or directing the voter to mark the ballot.

9 I mean, in a practical -- from a practical
10 perspective, it would be the more liberal interpretation
11 to -- you know, common sense would tell you we've got to
12 try to assist voters.

13 Q. (By Ms. Perales) Understood. You would agree
14 with me that these four specific acts, that the assistor
15 confines assistance to, all involve interaction with the
16 ballot?

17 MS. HUNKER: Objection, form.

18 A. Well, in -- on Number 4, or directing the voter
19 to mark the ballot, yes.

20 Q. (By Ms. Perales) But -- and you would agree
21 with me that in all four of these actions, someone is
22 interacting with the ballot, either the assistor or the
23 voter; is that right?

24 MS. HUNKER: Objection, form.

25 A. Yes.

1 Q. (By Ms. Perales) Okay. And you would also
2 agree with me that voting, more generally, encompasses
3 actions that go beyond reading and marking the ballot?
4 For example, checking in and signing in to vote, yes?

5 A. Yes.

6 Q. And being accepted to vote by the poll workers?

7 A. Yes.

8 Q. And also includes being shown how to use the
9 voting machine and understanding how to use the voting
10 machine?

11 A. Yes. It depends on which machine we're talking
12 about. I mean, the marking the ballot, it's clear that
13 the -- the vote, the ExpressVote, would be marking the
14 ballot, as opposed to using the vote tabulator, dropping
15 the ballot in, and confirming your choices.

16 Q. And you would agree with me that the act of
17 voting also includes moving around the polling place,
18 going from one, kind of, spot to another?

19 A. There's three distinct stations in our method
20 of voting -- actually, four: checking in, potentially
21 further dealing with exceptions to the standard voting
22 procedure at the -- at the judge's table, marking your
23 ballot, and depositing your ballot.

24 Q. And would it be fair to say that, while moving
25 through those four stages of voters, typically moving

1 through space in the polling place, itself?

2 A. That's correct.

3 Q. This is a dumb question --

4 A. Uh-huh.

5 Q. -- but would it be fair to say that you would
6 not be aware of what a voter and an assistor would say
7 to each other, prior to coming to vote, about whether
8 the assistor is willing to vote?

9 A. Fair.

10 Q. To --

11 A. That's fair to say.

12 Q. Okay. Thank you. Have you done any training
13 of poll workers on the changes created by SB 1 with
14 respect to the Oath of Assistance?

15 A. I believe we direct -- we point out the fact
16 that there is a new Oath of Assistance in that -- and
17 how to use that, that oath.

18 Q. And -- okay. And would those training
19 materials have been produced in this case? So, for
20 example, you said you had reviewed some material prior
21 to this deposition --

22 A. Uh-huh.

23 Q. -- that you think was disclosed in the first
24 round of disclosures.

25 A. Uh-huh.

1 Q. Do you recall whether any of your training
2 materials were in there?

3 A. I don't recall.

4 Q. Okay.

5 A. I will point out, though, that there is also --
6 the reference materials that we have at a polling place
7 include, not only our materials (indicating), but also
8 the Secretary of State's guide on how to conduct -- it's
9 a little bit thicker, more detailed, guide for those
10 activities at the polling place.

11 (Ms. Perales confers with Mr. White.)

12 Q. So SB 1 also created a new form for assistors
13 to provide additional information, and I'm going to ask
14 you about that separately.

15 A. (Witness moves head up and down.)

16 Q. But do you recall, specifically, having
17 training for your poll workers on the changes in the
18 language of the oath?

19 A. I -- I don't know.

20 Q. Okay. Do you recall receiving any specific
21 training or guidance from the Texas Secretary of State
22 about how to implement the changes in the assistor oath?

23 A. The Secretary of State provides various
24 election advisories, webinars, et cetera. I don't
25 recall if there was one, in particular, that covered

1 this (indicating) area.

2 Q. (Moving head up and down.) Are you aware of
3 any incidents of voter fraud associated with in-person
4 assistance of voters at the polling place?

5 A. No.

6 Q. Are you aware whether Texas has other laws that
7 existed prior to SB 1 that criminalize unlawful voter
8 assistance?

9 A. In the context of an assistant (indicating)
10 providing assistance at a polling place?

11 Q. Yeah. So, for example, do you know if it was
12 illegal before SB 1 to mark the ballot on behalf of the
13 voter, not the way the voter is -- is intending?

14 MS. HUNKER: Objection, form.

15 A. I -- I don't know.

16 Q. (By Ms. Perales) Okay. Looking at the new
17 assistor oath, (indicating) do you know whether Dallas
18 County uses a hard copy form or whether Dallas County
19 uses the Poll Pad to collect the information?

20 A. I believe we use both because the Poll Pad
21 software was not able to be updated in a timely fashion
22 to cha- -- have the -- the modified language.

23 Q. And there's a -- there's an additional
24 requirement to state the relationship and --

25 A. Uh-huh.

1 Q. So that's what you're referring to?

2 A. Yes.

3 Q. Okay. Who's --

4 A. And I -- I believe there's new software that's
5 been -- that's pending approval by the Secretary of
6 State before we can use it.

7 Q. Okay. So you would have to get approval from
8 the Secretary of State before implementing that new
9 software?

10 A. I believe so, yes.

11 Q. Do you have a sense of the timeline for that
12 new software getting approved?

13 A. I wish I knew because that new software has
14 other features that we're very anxious to use.

15 Q. Turning back to SB 1, I'm going to ask you now
16 about this new form. If you will turn again with me to
17 Page 52 of the bill.

18 A. Okay.

19 Q. You'll see that starting on Line 2, there is a
20 new section, because it's all underlined, titled
21 "Submission of Form by Assistant."

22 Do you see that?

23 A. Uh-huh.

24 Q. And would you agree with me that this is a new
25 provision that says that an assistor who is not an

1 election official is required to complete a form stating
2 certain information about the assistor?

3 MS. HUNKER: Objection to form.

4 A. Yes.

5 Q. (By Ms. Perales) Okay. At this point in time,
6 are you using the new form required under this section
7 in hard copy at the polling place? Are -- do you know?

8 A. I believe so, but I can't -- I'd have to
9 confirm that.

10 Q. So if that were the case, help me understand,
11 given the stages that you were describing before, at
12 what point the assistor signs the Oath of Assistance and
13 fills out the new form.

14 Is it after the voter checks in?

15 A. It would be at the check-in table during
16 that -- that point in time.

17 Q. And would you agree with me that filling out a
18 new form is going to take additional time compared to
19 the time period when the form was not required?

20 A. Yes.

21 Q. Would you agree with me that at a polling place
22 where there are more voters voting with assistors, the
23 new requirement of a form is going to take more time for
24 each instance in which an assistor has to fill out that
25 form?

1 A. Yes.

2 MS. HUNKER: Objection, form.

3 Q. (By Ms. Perales) And you would understand with
4 me, wouldn't you, that this form has to be completed by
5 the assistor for each instance of assistance?

6 A. Yes.

7 Q. All right. So if I come to the polls and I'm
8 helping my mother and my aunt, I'm going to have to fill
9 out this information twice, correct?

10 A. Yes.

11 Q. And I will have to take the oath twice?

12 A. Yes.

13 Q. Have you ever assisted a voter at the polling
14 place?

15 A. Many, many, many years ago. Probably 2001.

16 Q. Okay. Tell me what assistance you provided.

17 A. I -- I don't recall. This was in Nebraska --

18 Q. Uh-huh.

19 A. -- when I was working a polling place. I
20 couldn't -- it's a vague memory.

21 Q. Were you a poll worker at that time?

22 A. I was the Chief Deputy Election Commissioner,
23 but I made my whole staff go work a polling place so we
24 could experience what it was like.

25 Q. So, in that moment, you were fulfilling the

1 roll of a poll worker?

2 A. That's correct.

3 Q. Okay. Do you happen to recall whether the --
4 whether the voter was elderly or disabled --

5 A. I believe --

6 Q. -- or --

7 A. -- elderly.

8 Q. Okay. Do you -- and you don't -- I don't want
9 to put words in your mouth about what assistance you
10 might have offered the elderly voter, but do you recall
11 any details about it?

12 A. I don't.

13 Q. Turn with me, if you would, to Page 50 --

14 A. Okay.

15 Q. -- where it starts on Line 19 with Section 6.01
16 and then Line 27 where it says f, in parentheses --

17 A. (Witness moves head up and down.)

18 Q. -- then, quote, A person who simultaneously
19 assists seven or more voters voting under this section
20 by providing the voters with transportation to the
21 polling place must complete and sign a form, unquote.
22 And it continues from there.

23 Do you see that?

24 A. Yes.

25 Q. Are you aware of any instances in Dallas County

1 understand that the prohibition to either pay someone or
2 to accept payment to assist a voter vote by mail is now
3 expanded to all people who are either paying or getting
4 paid to assist a voter to vote by mail, regardless of
5 whether it is a performance-based scheme?

6 MS. HUNKER: Objection to form.

7 A. Yes.

8 Q. (By Ms. Perales) Okay. And we see on Page 55,
9 on Line 18, there's an exception here for an attendant
10 or a caregiver who is known to the voter?

11 A. (Witness moves head up and down.) Yes.

12 Q. Do you see that?

13 A. Uh-huh.

14 Q. Would you agree with me, though, that beyond --
15 well, would you agree with me, then, that somebody who
16 is paid by a nonprofit community engagement organization
17 to assist voters to vote by mail would fall under the
18 prohibitions of this statute?

19 MS. HUNKER: Objection, form.

20 A. It appears so, yes.

21 Q. (By Ms. Perales) Going to turn forward now to
22 Section 7.04 on Page Fif- -- well, it starts on Page 58,
23 and then it flows over onto Page 59.

24 If you look with me, starting on Line 7,
25 there's a definition of "vote harvesting services" on

1 Page 59.

2 A. Oh, okay. Here we go. Yes.

3 Q. And would you agree with me that the definition
4 of "vote harvesting services" requires an in-person
5 interaction with the voter?

6 A. Yes.

7 Q. And that interaction has to be in the physical
8 presence of an official ballot or a ballot voted by
9 mail?

10 A. Yes.

11 Q. And then there has to be the intent to deliver
12 votes for a specific candidate or measure?

13 A. Yes.

14 Q. Would you agree with me that if a canvasser
15 who's going house-to-house to encourage people to vote
16 for -- well, before I ask my question, I want to know
17 whether you have any bond issues on the ballot for
18 Dallas County for this May 7 election.

19 A. There's no Dallas County bond issues. There's
20 city bond issues, and I think there's some school --

21 Q. Some school --

22 A. -- district bond issues.

23 Q. -- or city?

24 A. Yeah.

25 Q. Okay. So I want to make my hypothetical

1 specific to that.

2 A. Okay.

3 Q. Somebody is going door-to-door canvassing
4 voters to encourage them to vote for the bond for the
5 school district.

6 A. Uh-huh.

7 Q. Their intent is to convince the voter to vote
8 for the bond because it means new schools, better
9 facilities. And the voter says, Sure, I'll talk with
10 you; I have my mail ballot right here; it's right --
11 it's right here inside the door. It's right here on the
12 kitchen table.

13 Would you agree with me that that would be an
14 in-person interaction with the voter, that -- that
15 canvassing, that conversation?

16 A. Yes.

17 Q. And would you agree with me that if the voter
18 said the ballot was right there, that that would mean in
19 the physical presence of the ballot?

20 A. I guess it --

21 MS. HUNKER: Objection, form.

22 A. -- depends on how you define physical presence.

23 Q. (By Ms. Perales) And would you agree with me
24 that the canvasser, who's urging to voter to vote for
25 the school bond, is intending to get the voter to vote

1 for the school bond?

2 A. Yes.

3 Q. Okay. And if the -- if the voter says, "Well,
4 I have -- I have the ballot right here," and it's let's
5 say within a foot or two of the voter, that would be in
6 the presence of the ballot?

7 MS. HUNKER: Objection, form.

8 A. I don't think that the statute defines -- and,
9 I mean, it could be in the same house, could be in the
10 same block.

11 Q. (By Ms. Perales) Uh-huh.

12 A. I mean, it's -- it's vague, so I -- I don't
13 know how to answer that question with specificity.

14 Q. Okay. Since we're very close to there, I would
15 like you to flip forward to Page 60, Line 15, which is a
16 section titled "Unlawful Solicitation and Distribution
17 of Application to Vote by Mail."

18 Do you see that there?

19 A. Yes.

20 Q. Do you understand this to be a prohibition on
21 you to send out to voters application for ballot by
22 mail --

23 A. Ye- --

24 Q. -- when they are not requested?

25 A. Yes.

1 Q. And when the language says "commits an
2 offense," do you understand that to be a criminal act?

3 A. Yes. I believe they go on to say the State
4 Jail Felony.

5 Q. Ye- -- and I imagine you -- you've become aware
6 of that language?

7 A. Yes. Uh-huh.

8 Q. Are you -- are you concerned that certain
9 things that your office might do or might have done in
10 the past would run afoul of this provision and possibly
11 create criminal liability for you?

12 MS. HUNKER: Objection --

13 A. Yes.

14 MS. HUNKER: -- form.

15 Q. (By Ms. Perales) Can you describe that for me?

16 A. We have, historically, distributed
17 applications, you know, when someone comes in and says,
18 "Hey, I want to provide application; you know, I want to
19 distribute applications for vote by mail," we provide
20 those to them.

21 Q. Uh-huh.

22 A. And we no longer can do that.

23 Q. Uh-huh. So if someone came to your office and
24 said, "I regularly go to church on Sundays, and we have
25 a great group of congregants; I'd love to bring 25

1 applications for ballot by mail to my next church
2 service, give them to the old folks, the folks over 65,"
3 in that situation, would you give the individual the 25
4 applications for ballot by mail?

5 A. Not since the passage of SB 1.

6 Q. And in fact, you would require a voter to
7 request of you the application for ballot by mail before
8 you would send it out, correct?

9 A. That's correct.

10 Q. Are you aware of voters who may have, in the
11 past, gotten their application for ballot by mail
12 without having to ask for it from you?

13 A. Yes.

14 Q. Do you know of any specific instances like
15 that?

16 A. No.

17 Q. Okay. But you're familiar with individuals
18 having come for, let's say, batches of application for
19 ballot by mail because they intend to deliver those to
20 voters who are eligible so that the voter can submit it?

21 A. Yes.

22 Q. So I only have one copy of this, so we're going
23 to mark it; and then I'm going to do my best to remember
24 what it says.

25 A. Okay.

1 THE REPORTER: That's Number 7.

2 MS. PERALES: 7.

3 (Deposition Exhibit Number 7 marked.)

4 MS. HUNKER: Since I can't see it, can you
5 describe what it is?

6 MS. PERALES: Yes, or maybe I'll ask the
7 witness to do that.

8 MS. HUNKER: That's fine.

9 (Document handed to the witness.)

10 Q. (By Ms. Perales) And I'll represent to you
11 that this is a couple of emails that were provided to us
12 today in the supplemental production, and they don't
13 have Bates stamp numbers on them yet.

14 But would it be -- would it be correct to say
15 that this is an exchange of emails in which you are
16 inquiring about prepaying the postage for applications
17 for ballot by mail?

18 A. If you can give me a moment to review it.

19 Q. Please take your time.

20 A. (Witness reviews document.) Okay.

21 (Ms. Perales confers with Mr. White.)

22 Q. Okay. So would it be correct to say that this
23 is an exchange of emails in which you are inquiring
24 about paying the postage or putting the -- Dallas County
25 putting the postage on an application for a ballot by

1 Q. Who are the election officials to whom poll
2 watchers are obligated to report irregularities?

3 A. We encourage them to talk to the election
4 judge, the presiding judge --

5 Q. And to --

6 A. -- and to not -- not interact with the clerks.

7 Q. And why -- why do you encourage them to not
8 interact with the clerks?

9 A. Because the judge has more thorough training
10 and knowledge of what is allowed and what is not
11 allowed, whereas the clerks do not.

12 Q. And --

13 A. As well as just the general procedures; they
14 have a deeper understanding of how the conduct -- and
15 they are responsible for the conduct of the election at
16 that polling place.

17 Q. And do election judges and clerks have
18 responsibilities on Election Day apart from waiting to
19 hear complaints from poll watchers?

20 A. Yes.

21 Q. And what are some of those responsibilities?

22 A. Generally speaking, the judge is responsible
23 for all activities within that polling place, including
24 directing the activities to open it, close it, to run
25 it, as well as the specific responsibilities to handle

1 what we call exceptions to the standard voting
2 procedure. Clerks handle the 80 percent that are easy.
3 judges handle the 20 percent that are difficult.

4 Q. Okay. So when a poll watcher is reporting a
5 suspected irregularity to an election official, is it
6 fair to say that the election official will be unable to
7 handle their other responsibilities while they are
8 dealing with the -- a watcher.

9 MS. HUNKER: Objection, form.

10 A. I don't know that that's -- I mean, being a
11 judge is difficult, and they have to juggle. And -- and
12 so that's just another piece of their job that they have
13 to juggle, as well as dealing with difficult voters and
14 dealing with signs and, you know, dealing with the --
15 all the other things that someone who's running a
16 polling place has to deal with.

17 Q. (By Mr. White) Well, would you agree that
18 while an election official is talking to or interacting
19 with a poll watcher, they are not able to do any of the
20 other tasks they're assigned to do?

21 MS. HUNKER: Objection, form.

22 A. I would agree that most people can -- they have
23 to deal with one thing at a time.

24 Q. (By Mr. White) Okay. During the March primary
25 of this year, did Dallas County experience a shortage of

1 poll workers at polling sites?

2 A. Yes.

3 Q. How significant of a shortage?

4 A. It was very significant.

5 Q. Can you explain more what you mean by that?

6 A. We had a big shortage of judges, in particular,
7 where judges had committed to working and then didn't
8 show up two days prior to the election to pick up their
9 supplies. I think we had 71 no-shows on the Sunday
10 before the election, then some more on Election Day.

11 Q. Okay. I want to pass you exhibits. I'm not
12 sure what exhibit number we are up to, but --

13 THE REPORTER: 9.

14 MR. WHITE: 9.

15 Q. Okay. I'll pass you what I would ask the court
16 reporter to mark as Exhibit 9.

17 (Document handed to the court reporter.)

18 Q. And I'll represent to you this is a news
19 article about some of the --

20 MR. WHITE: Oh, I'm sorry. Could you --

21 THE REPORTER: I've got -- you've got to
22 quit talking for me to mark it. I'm sorry.

23 (Deposition Exhibit Number 9 marked.)

24 THE REPORTER: Okay. Thank you.

25 MR. WHITE: Thanks.

1 (Document handed to the witness.)

2 Q. So I'll just represent to you this is a news
3 article about some of, like, the wait times and worker
4 shortages during the March primary in Dallas County,
5 which I'm sure you're familiar with.

6 And if I could ask you to turn to Page 5 of
7 this article.

8 A. (Witness complies.)

9 Q. And the last full paragraph on Page 5 -- I'll
10 just read it aloud -- says: "Scarpello also said some
11 election judges were afraid of being prosecuted under a
12 provision of the law related to partisan poll watchers."

13 Did I read that correctly?

14 A. Yes.

15 Q. And then it goes on to say: (Reading) SB 1
16 makes it a misdemeanor offense for a worker to knowingly
17 prevent (sic) a watcher from observing an activity or
18 procedure the person knows the watcher is entitled to
19 observe.

20 Did I read that correctly?

21 A. Yes.

22 Q. How did you become aware that election judges
23 were afraid of being prosecuted under this provision?

24 A. We had several judges tell us that.

25 Q. How many judges?

1 A. I don't know.

2 Q. And who did they speak to about these concerns?

3 A. Staff -- county -- our staff -- voting site
4 staff.

5 Q. And so is it fair to say that this provision
6 was a cause of election judges not reporting for duty --
7 or, sorry. Strike that.

8 Is it fair to say that this provision was a
9 cause of the poll worker shortages that we were just
10 discussing?

11 MS. HUNKER: Objection, form.

12 A. My speculation is that it was a contributing
13 factor.

14 Q. (By Mr. White) And what other factors do you
15 believe led to the poll shortage, poll worker shortage?

16 A. There's a general -- there's a general degree
17 of people not wanting to volunteer or not wanting to
18 work. We have difficulties getting temporary workers,
19 full time workers, poll workers. And so I think that,
20 you know, there's a -- wherever you go, we see that,
21 right? You go to McDonald's. You can't -- they don't
22 have workers.

23 And so I think that's a contributing factor. I
24 think this -- this legislation's a contributing factor.
25 I think there's lots of factors.

1 Q. Did you have to close polling sites as a result
2 of the shortage of poll workers?

3 A. Yes.

4 Q. How many?

5 A. I believe it was -- gosh, don't -- I think it
6 was nine, and then we ended up open -- opening one of
7 those nine later in the -- the morning.

8 Q. Where, in Dallas County, were these nine poll
9 sites --

10 A. Scattered throughout the county.

11 Q. Scattered throughout. Who decided to close
12 them?

13 A. I did.

14 Q. Did you attempt to recruit other poll workers
15 or election judges before making that decision?

16 A. Yes. I mean, remember, I said 71 didn't show
17 up on Sunday to pick up their supplies. So, on Monday,
18 we scrambled and reassigned people and moved alternate
19 judges and successfully patched most of those holes
20 except for those eight or nine.

21 Q. Did the shortage of poll workers cause longer
22 wait times for voters at polling sites?

23 A. Yes.

24 MS. HUNKER: Objection, form.

25 Q. (By Mr. White) If you could turn to Page 2 of

1 the article that I just gave you.

2 A. Uh-huh.

3 Q. At the bottom, there are a couple of paragraphs
4 talking about a voter named Gladys Ivy who says that she
5 waited for four hours to vote at the Disciple Central
6 Community Church in DeSoto.

7 Are you aware of that polling site?

8 A. I am.

9 Q. And are you familiar with -- oh, strike that.
10 Are you familiar with this story about Gladys
11 Ivy having to wait four hours?

12 A. I am familiar with it, and I have my doubts
13 about it. We're investigating that. It's highly
14 unlikely someone waited four hours.

15 Q. Okay. Why do you have your doubts?

16 A. Because it's highly unlikely someone waited
17 four hours. It's -- the math just doesn't add up.

18 Q. Okay. What do you -- were there other -- I'm
19 sorry. Strike that.

20 Why -- why do you think the math doesn't add
21 up?

22 A. Because it's -- it would be nearly impossible
23 for someone to wait four hours for that curbside voting
24 that she claims.

25 Q. I guess I'm just trying to understand why

1 modification so that their ballot could be cured in a
2 different way than is specifically, provided for by
3 SB 1?

4 MS. HUNKER: Objection, form.

5 A. I think that it's hard for me to speculate on,
6 you know, a vague hypothetical. You know, I -- these --
7 these -- like I said before, this would be handled on a
8 case-by-case basis with, you know, true, you know,
9 facts. And it would be a fact-based decision.

10 Q. That makes a lot of sense. Thank you.

11 A. Uh-huh.

12 Q. Has -- so moving away from hypotheticals,
13 then --

14 A. Okay.

15 Q. -- has your office received requests for
16 regional (phonetics) modifications for changes in voting
17 procedures from voters with disabilities post enactment
18 of SB 1?

19 A. No, I don't believe so.

20 Q. Okay. I have one last set of questions about
21 the voter identification requirements.

22 After SB 1, does your office advise mail ballot
23 voters to provide both their Social Security number and
24 driver's license numbers?

25 A. Yes. After -- in February of 2022, as we were

1 having a high rejection rate, we went to extraordinary
2 measures to try to educate the public, and we got -- I
3 think we got an allotment of \$87,000 from the
4 Commissioners Court where we reached out directly to
5 voters who had rejected mail ballot applications.

6 We did some radio ads. We did some Facebook
7 educational efforts to try to, number one, help people
8 who had already had rejected mail ballots or rejected
9 applications, as well as preventing those problems from
10 happening. So, yes, you know, we do what we can to try
11 to prevent and solve the problem once it occurs.

12 Q. So, to be clear, the recommendation to put both
13 the Social Security number and driver's license number
14 began around February; is that correct?

15 A. Yes.

16 Q. And you may have already answered this, but why
17 did you start advising to put both numbers?

18 A. We kind of used the tag line, "When in doubt,
19 fill them both out," and -- because it's just, you know,
20 to be as safe as possible to try to get both of those
21 numbers down with the idea that someone is -- is likely
22 to have one of those two numbers on their voter
23 registration record.

24 Q. So, in the circumstances where an individual
25 puts down only their driver's license number on their

1 mail ballot, but you only have their Social Security
2 numbers on file, what would happen?

3 A. That would be rejected, and they would -- they
4 would get a reject letter asking for more information;
5 or the form provided by the Secretary of State, we would
6 send them that form.

7 Q. So they would get a reject letter, but the law
8 does not require that an individual write down both
9 numbers; is that correct?

10 A. No.

11 Q. So is it fair to say that, under the new
12 system, many people who put down a correct identifying
13 number for themselves are still at risk of having their
14 application for ballot by mail or mail ballot rejected?

15 MS. HUNKER: Objection, form.

16 A. That would be the case. If they have -- if we
17 have a voter registra- -- or a driver's license on file,
18 but they send in a correct Social Security number, if
19 the two don't match, then we can't accept.

20 MS. CAI: Thank you. That's all my
21 questions.

22 THE REPORTER: Just a second, please.
23 Okay. Thank you.

24 MS. HUNKER: How much time for the
25 Plaintiffs.

1 THE REPORTER: I couldn't tell you right
2 this second.

3 MR. WHITE: Should we go off record for a
4 second?

5 THE VIDEOGRAPHER: Off the record. Time
6 is 7:08 p.m.

7 (Discussion off the record.)

8 THE VIDEOGRAPHER: Okay. We're back on
9 the record. The time is 7:09 p.m.

10 EXAMINATION

11 BY MS. HUNKER:

12 Q. Good evening, Mr. Scarpello. How are you
13 today?

14 A. Very good.

15 Q. My name is Kathleen Hunker. I represent the
16 State Defendants. I am going to be asking you a series
17 of questions mostly in response to what Plaintiffs'
18 Counsel had asked you, so I'm going to be jumping around
19 a little bit with respect to topics.

20 If at any point, my switch of topics confuses
21 you or you don't understand the switch, would you please
22 let me know?

23 A. Sure.

24 Q. If you do, I'll be happy to provide additional
25 foundation or to restate the question as needed. Okay?

Attachment 12

Lisa Wise

**April 15, 2022 Deposition
Excerpts**

Transcript of the Testimony of
Lisa Wise

Date:

April 15, 2022

Case:

LA UNION DEL PUEBLO ENTERO et al. vs GREGORY W. ABBOTT

Lisa Wise

April 15, 2022

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF TEXAS
 3 SAN ANTONIO DIVISION

3 LA UNION DEL PUEBLO ENTERO)
 4 et al.,)
 5 Plaintiffs,)
 6 v.)
 7 GREGORY W. ABBOTT, et al.,)
 8 Defendants.)

Civil Action No. SA-21-CV-
 00844-XR

9 -----
 10 ORAL AND VIDEOTAPED DEPOSITION OF
 11 LISA WISE
 12 APRIL 15, 2022
 13 Volume 1
 14 -----

15
 16 ORAL AND VIDEOTAPED DEPOSITION OF LISA
 17 WISE produced as a witness at the instance of Plaintiff,
 18 and duly sworn, was taken in the above-styled and
 19 numbered cause on the 14th day of April, 2022 from 9:06
 20 a.m. to 5:05 p.m., before Nancy Newhouse, a Certified
 21 Shorthand Reporter in and for the State of Texas,
 22 reported by oral shorthand, located at the 500 East San
 23 Antonio, Room 503, El Paso, Texas 79901, pursuant to the
 24 Federal Rules of Civil Procedure, and the provisions
 25 stated on the record or attached hereto.

1 A. Yes.

2 Q. And is it your understanding that the
3 information and documents that you reviewed have already
4 been produced to the Plaintiffs in this case?

5 A. Yes.

6 Q. Okay. If, while we're talking today in the
7 deposition, you reference a document that you think
8 might not have been produced, or if I think I might not
9 have seen it, I may ask you, or I may make a note on the
10 side that I will want to follow up about that document,
11 is that okay?

12 A. Yes.

13 Q. Other than your counsel, did you meet with
14 anybody else to prepare for today's deposition?

15 A. No.

16 MS. PERALES: I'd like to mark this as
17 Exhibit 1.

18 (Plaintiff's Exhibit No. 1 marked for
19 identification.)

20 MS. SPECTOR: Thanks.

21 MS. SANCHEZ: Thank you.

22 MS. PERALES: You're welcome.

23 Q. (BY MS. PERALES) You've been handed a copy of
24 a document that is marked Exhibit 1, can you read the
25 title of the document for me?

1 A. "United States District Court Western District
2 of Texas San Antonio Division."

3 Q. That's okay. If you wouldn't mind reading
4 just the part where it says "Amended Notice"?

5 A. "Amended Notice of Rule 30(b)(6) Deposition of
6 El Paso County Elections Department."

7 Q. Thank you. And have you seen a document like
8 this before?

9 A. Yes.

10 Q. And do you understand that you're giving your
11 deposition today pursuant to this notice?

12 A. Yes.

13 Q. I'd like you to turn to Page 13 of the
14 document, where you see the heading "Deposition Topics",
15 have you seen these deposition topics before?

16 A. Yes.

17 Q. Thank you. And do you understand that you've
18 been designated as the witness to speak officially for
19 El Paso County on these topics?

20 A. Yes.

21 Q. Thank you, you can put that away now.

22 I'd like to ask you a couple of questions
23 about your background that were not covered yesterday.

24 A. Okay.

25 Q. Where did you grow up?

1 A. I grew up in Omaha, Nebraska.

2 Q. And did you go to college?

3 A. Yes, I did.

4 Q. Where did you go to college?

5 A. I went to college, undergrad, in Kansas City
6 at Park University, it's in Parkville, Missouri, just
7 outside Kansas City, and I went to grad school at the
8 University of Nebraska in Omaha.

9 Q. And what did you get your graduate degree in?

10 A. A Master's in Public Administration.

11 Q. Now, just for the purpose of making sure that
12 this record is all right, would you repeat your current
13 job title?

14 A. Sure. I am the El Paso County elections
15 administrator.

16 Q. Now, yesterday you talked about coming to El
17 Paso, moving here, because your husband had changed jobs
18 and you applied for the job of elections administrator
19 here in El Paso County, do you recall that?

20 A. Yes.

21 Q. So I wanted to ask you, what was the position
22 that you held, what was your job before you came to
23 El Paso County?

24 A. I was the deputy election commissioner in
25 Douglas County, Nebraska; Omaha, Nebraska, the largest

1 county.

2 Q. And how long did you hold that position?

3 A. About eight years, a little over eight years.

4 Q. And prior to that, what job did you have?

5 A. Prior to that, I did some campaign work. I

6 worked in the mayor's office, I was in grad school.

7 There was a lot of little things happening, little

8 part-time jobs, kind of, in that last few years.

9 Q. Can you tell me what you did as deputy

10 commissioner there in Omaha?

11 A. Sure. Much like here, administered elections

12 all across the county. We did poll worker recruitment,

13 polling site placement, voter registration, ballot by

14 mail, collecting the results, tabulating, same type of

15 work that I do here.

16 Q. You mentioned yesterday, it sounded like the

17 system in Nebraska was more like a poll worker draft,

18 and so I was wondering if you could --

19 A. Yes.

20 Q. -- tell me a little more about that?

21 A. So in the state of Nebraska, you get drafted

22 to serve as a poll worker, and, once you've served two

23 elections, then you're removed from the draft. So it's

24 -- it's -- that's -- that's how we get people, so they

25 are not so much volunteers, it's if you don't show up,

1 it's just like jury duty, so there are -- they have to
2 serve.

3 Q. Were they paid in Nebraska?

4 A. Yes.

5 Q. Were they paid more in Nebraska than they are
6 in Texas?

7 MS. SPECTOR: Object to form.

8 A. Again --

9 MS SPECTOR: Go ahead.

10 A. Again, that was 2014 when I left there; not
11 more than what we pay here in our county.

12 Q. (BY MS. PERALES) So can you tell me how many
13 years in total you have worked in election
14 administration?

15 A. About 15.

16 Q. I'm going to shift now to some questions about
17 El Paso County, and then a little bit more specifically
18 about your Latino voters here in El Paso County.

19 Would it be fair to say that most of the
20 population in El Paso County is Hispanic?

21 A. Yes.

22 Q. Would it be fair to say that most of your
23 voters here in El Paso County are Hispanic?

24 A. Yes.

25 Q. Would it be fair to say that many of the

1 voters in El Paso County speak Spanish?

2 A. Yes.

3 Q. And that you made reference yesterday to being
4 covered by the language requirements under the Federal
5 Voting Rights Act for Spanish, is that right?

6 A. Yes.

7 Q. Would you say that there are many voters
8 in El Paso County who are low income?

9 MS. SPECTOR: Object to form.

10 A. Yes.

11 Q. (BY MS. PERALES) And from what you know about
12 your community and the voters in your community, would
13 you also say that there is a significant portion of the
14 population, here in El Paso County, that does not have a
15 college degree?

16 A. Yes.

17 Q. Do you have any knowledge of whether many of
18 your voters have access to a computer with internet?

19 MS. SPECTOR: Object to form.

20 A. I guess I would say I don't know for sure
21 about that.

22 Q. (BY MS. PERALES) Did you receive calls here
23 at El Paso County Elections, in this most recent
24 election, cycle from voters who said that they did not
25 have access to the internet?

1 A. Yes.

2 Q. More than one call?

3 A. Yes.

4 MS. PERALES: I'm going to mark the next
5 exhibit, Exhibit 2.

6 (Plaintiff's Exhibit No. 2 marked for
7 identification.)

8 A. Thank you.

9 Q. (BY MS. PERALES) I want to give you a second
10 to take a look at what has been marked Exhibit 2 while I
11 get my pen out.

12 Can you tell me, what is this Exhibit 2?

13 A. This is the Hispanic Voter Statistics Report
14 from the 2020 March Primary Election.

15 Q. Thank you. Is this -- I'm going to need a
16 little bit of help understanding this document.

17 A. Okay.

18 Q. If we look at the first age group, ages 18 to
19 110, do you see that?

20 A. Yes.

21 Q. All right. And in the first column where it
22 says total voters, does this exhibit tell us that there
23 were a total of 470,006 voters in the November -- I'm
24 sorry, in the March '20 election?

25 A. I believe so.

1 Q. Would that be registered voters?

2 A. Yes.

3 Q. Okay. And then the next column which says
4 total Hispanic voters, 245,041, would that also be total
5 registered?

6 A. Yes.

7 Q. And then the next column, I think I
8 understand, total who voted, that 88,762, would that be
9 those who voted in the March 2020 election?

10 A. Yes.

11 Q. And then the next two columns I understand to
12 be total, inclusive of Hispanic and non-Hispanic, is
13 that right?

14 MS. SPECTOR: Object to form.

15 A. Yes.

16 Q. (BY MS. PERALES) And then the next column,
17 total Hispanic who voted, 54,112, would be all, all of
18 the Hispanic voters who voted in that election?

19 A. Yes.

20 Q. Okay. Okay. Okay.

21 Now, I want to go back to the column,
22 total Hispanic voters, and I want to draw your attention
23 to the numb -- the percent down below there, 52.14
24 percent.

25 A. Yes.

1 the ballot tracker again.

2 Yesterday you said that, eventually, El
3 Paso County started getting a report from the Secretary
4 of State about voters that had gone into the ballot
5 tracker to update their information, do you know,
6 roughly, the date when you started receiving those
7 reports from the Secretary of State?

8 MS. SPECTOR: Object to form.

9 A. We received one report, and the date was
10 towards the end of the early voting period. I don't
11 remember the exact date. I may have produced the email
12 letting us know that it was now available, but I don't
13 remember that.

14 Q. (BY MS. PERALES) Okay. You mentioned that
15 the Secretary of State kept saying they were working on
16 it yesterday, do you remember who from the Secretary of
17 State said that they were working on it?

18 A. I -- I think her first name is Megan, and I
19 don't remember her last name. But I know that she was
20 frustrated as well, because she was saying there are
21 other counties that are offline that either they weren't
22 able to work with their vendor, so I understood she was
23 frustrated as well, and we were able to get it as soon
24 as she was able to get it.

25 Q. Is it correct to say that online counties

1 received updated information about ID numbers through
2 TEAM?

3 MS. SPECTOR: Object to form.

4 A. Yes, because their actual voter registration
5 database is TEAM, so it would be -- it's one in the
6 same.

7 Q. (BY MS. PERALES) So help me connect the
8 dots.

9 If a voter updated their ID information
10 in the ballot tracker, would that information then
11 automatically go into TEAM?

12 MS. SPECTOR: Object to form.

13 A. I have to tell you the truth, I don't know. I
14 don't know how it interfaced with -- with online
15 counties.

16 Q. (BY MS. PERALES) Before January 1, did you
17 know how many registered voters in El Paso County did
18 not have a driver's license number associated with their
19 voter registration record?

20 MR. JEFFREY WHITE: Objection, form.

21 A. I believe that at one point during the
22 committee, in talking about the -- when this bill was
23 not fully drafted yet, we talked about the numbers, and
24 I think we were around 50-some thousand that didn't have
25 a driver's license, and 30-some thousand that didn't

1 have both. I -- those are just off the top of my head.
2 Again, I think that's in record, but that's what I bel
3 -- I believe initially we, in early '20, when -- in
4 2021, when we were going into the drafting of the bill.

5 Q. (BY MS. PERALES) When you say we were
6 talking, do you mean the El Paso County Elections
7 Department, internally, or do you mean conversations
8 with other election administrators through the EA
9 Association?

10 A. Yes. I'm sorry, with the TAEA, that when we
11 were talking about, that was one of the biggest parts
12 that we were saying, is that we have -- are missing the
13 -- we are missing numbers. Every other county was
14 saying the same thing, that we -- or, you know, we have,
15 obviously, more that have at least one, but there are
16 still some that have neither and some that are missing
17 one.

18 Q. Do you know if the TAEA compiled the
19 information about missing ID numbers from various
20 counties, and provided that in some way to the Texas
21 legislature?

22 A. I be --

23 MS. SPECTOR: Object to form. Sorry.

24 THE WITNESS: I'm sorry.

25 MS. SPECTOR: Go ahead.

6 Q. (BY MS. PERALES) When you say our committee,
7 tell me what is our committee?

8 A. There's a legislative committee that's also
9 involved with TAEA, and again, anybody could be a member
10 of that. It's just that when the legislative session
11 starts, generally, if people are tasked in their office
12 with reviewing legislation, with com -- putting fiscal
13 impacts together, generally that's the EA.

14 There may be an assistant EA, there may
15 be somebody else who does that. Then they participate
16 in these calls, just to talk about, okay, what does --
17 you know, what do we like about this bill, what do we
18 not like about this bill --

19	Q. Uh-huh.
----	------------

20 A. And then we decide as an organization,
21 basically, if we're going to go on record as support,
22 opposition or just for information for record purposes.

23 Q. Did you create a document internal to El Paso
24 County Elections Department that has the exact numbers
25 of how many of your registered voters don't have a

1 driver's license number associated with their
2 registration?

3 MS. SPECTOR: Object to form.

4 A. I don't remember a document. I remember,
5 basically, being on a call and saying this is -- you
6 know, they were like, let's get these numbers. I asked
7 someone in my office, let's run these numbers. They
8 brought me back a sticky note, maybe, or that -- I mean,
9 that's the best I can remember, and then I just read
10 them off to them and they took that information.

11 Q. (BY MS. PERALES) Okay.

12 MS. SPECTOR: I think we're getting kind
13 of close to a break; up to you and how you feel.

14 Q. (BY MS. PERALES) Would you like to take a
15 quick break?

16 A. Sure.

17 MS. PERALES: Off the record.

18 VIDEOGRAPHER: We are off record at 10:13
19 a.m.

20 (Off the record.)

21 VIDEOGRAPHER: We are back on record at
22 10:27 a.m.

23 Q. (BY MS. PERALES) Ms. Wise, I don't want you
24 to think I'm obsessed with this online/offline thing,
25 but I do have one more question for you about offline

1 counties.

2 You started in El Paso as the elections
3 administrator in 2015, is that right?

4 A. Yes.

5 Q. Okay. Do you have an understanding of why
6 certain counties are offline for TEAM?

7 A. What I've been told, because I was not here to
8 make that decision, was that the -- the system for the
9 large counties cannot maintain that large amount of
10 information.

11 Q. So would it be correct to say that it's your
12 understanding that the TEAM system, which is op --
13 operated by the Texas Secretary of State, cannot handle
14 the size of the voter registration databases of the
15 larger counties?

16 A. Based on what I've been told, strictly, yes.

17 Q. I'd like to shift now to your practices before
18 SB 1, and I'm not going to retread the ground that
19 Mr. White did, covered yesterday, but I do want to ask
20 you some specific questions about vote by mail.

21 He mentioned yesterday that there were
22 times when you would mail ABBMS to voters over age 65,
23 do you recall that?

24 MS. SPECTOR: Object to form.

25 A. Yes.

1 A. Yes.

2 Q. Have you taken the poll watcher training
3 yourself?

4 A. I have not.

5 Q. Are you aware whether an individual could
6 simply click through the screens, without taking the
7 time to read the training?

8 MS. SPECTOR: Object to form.

9 A. I am not aware of that, whether or not that
10 could happen.

11 Q. (BY MS. PERALES) Are you aware whether
12 there's any kind of test at the end of the training, to
13 evaluate whether the poll watcher has absorbed any of
14 the training information?

15 MS. SPECTOR: Object to form.

16 A. I'm not -- I'm not sure.

17 Q. (BY MS. PERALES) You mentioned that there are
18 slides from the Secretary of State to help train your
19 poll workers on their duties with respect to watchers,
20 is that correct?

21 A. Yes, I believe so.

22 Q. Do you remember whether that was a stand-alone
23 training or part of a larger training of poll workers?

24 MS. SPECTOR: Object to form.

25 A. It was a part of the training that the

1 Secretary of State sends out.

2 Q. (BY MS. PERALES) Do you have adequate
3 guidance from the Secretary of State's Office on how
4 poll workers should behave towards poll watchers, to
5 make sure they comply with SB 1?

6 MR. JEFFREY WHITE: Object to form.

7 MS. SPECTOR: Object to form.

8 Q. (BY MS. PERALES) Meaning that the poll
9 workers comply with SB 1.

10 A. I don't think so.

11 Q. Can you elaborate on that?

12 A. I think the biggest concern for myself and
13 from poll workers is more about what can they do, that's
14 the biggest thing. Where can they go, can they stand
15 beside the DS200 and watch people? This is an issue we
16 had before, watch people put their ballot in, and they
17 are trying to see, tabulate in their mind, is that -- is
18 that something that's in the polling site. How close
19 can they get to a voter in the actual booth?

20 That's -- that's really my concern, and
21 that's been their concern, is that these guys, they want
22 to protect themselves, they don't want to do anything
23 wrong, but they are not sure what -- you know, before,
24 it was they could only talk to the judge, they -- they
25 could sit at a spot up by the check-in, and that was

1 basically it at the polling site. Obviously, with other
2 options, other observable activities it's different.

3 But close enough to see and hear, free
4 movement is the one that they talk about, that's because
5 that's an issue we had before. What does that mean?

6 And so I -- I think some guidance on what does that
7 mean, for myself and for the poll workers, I know they
8 would be appreciative of that.

9 Q. Have you received guidance from the Secretary
10 of State as to the definition of free movement in with
11 respect to what poll watchers are allowed to do?

12 A. No.

13 Q. Have you received instructions from the
14 Secretary of State about how close a poll watcher may
15 stand to the DS2 --

16 A. Two hundred.

17 Q. -- 00?

18 A. I'm sorry. That's our tabulator.

19 Q. Yeah.

20 MS. SPECTOR: Object to form.

21 A. No.

22 Q. (BY MS. PERALES) Have you received any
23 instruction from the Secretary of State about how close
24 a poll watcher can stand to the voter while the voter is
25 marking the ballot?

1 MS. SPECTOR: Object to form.

2 A. No.

3 Q. (BY MS. PERALES) Have you received any
4 guidance from the Secretary of State about whether a
5 poll worker must allow a poll watcher to view the paper
6 ballot as it's being put into the 2S200 --

7 MS. SPECTOR: Object to form.

8 Q. (BY MS. PERALES) -- DS200?

9 A. No.

10 Q. Have -- with respect to free movement, have
11 you received any guidance from the Secretary of State's
12 Office about how close a poll watcher can stand to
13 election workers as they are carrying out their duties
14 at the voter sign-in table?

15 MS. SPECTOR: Object to form.

16 A. No.

17 Q. (BY MS. PERALES) Have you received any
18 guidance from the Secretary of State about what behavior
19 by a poll watcher might constitute a violation of the
20 breach of a -- of the peace?

21 A. No.

22 Q. Have you received any guidance from the
23 Secretary of State's Office about the difference between
24 poll watcher activity that must be observed by two
25 election workers before the poll watcher can be removed

1 versus activity that only needs to be observed by one
2 election worker before the poll watcher can be removed?

3 MS. SPECTOR: Object to form.

4 A. I don't believe so.

5 Q. (BY MS. PERALES) Have you received any
6 guidance from the Secretary of State about when a
7 presiding judge must call a law enforcement officer to
8 remove a poll worcher -- wor -- watcher, versus when a
9 presiding judge may remove the poll watcher without
10 calling a law enforcement officer?

11 MS. SPECTOR: Object to form.

12 A. I don't believe we've received guidance on
13 that.

14 Q. (BY MS. PERALES) Have you received any
15 guidance from the Secretary of State about what activity
16 by a poll watcher would be a violation of the Penal Code
17 versus a violation of the Election Code?

18 MS. SPECTOR: Object to form.

19 A. No.

20 Q. (BY MS. PERALES) Are you then required to, at
21 least at this point, fill in the gaps in terms of poll
22 worker training with respect to activity that is allowed
23 or prohibited by SB 1 with respect to poll watchers?

24 MS. SPECTOR: Object to form.

25 MR. JEFFREY WHITE: Objection, form.

1 A. Yes.

2 Q. (BY MS. PERALES) We were on Page 27 of
3 Exhibit 5, and towards the bottom of the page there is a
4 Section 4.07, do you see that there?

5 A. Yes.

6 Q. And is it fair to say then that on those last
7 lines on Page 27 that SB 1 strikes the word conveniently
8 and adds the words enough to see and hear --

9 MS. SPECTOR: Object to form.

10 Q. (BY MS. PERALES) -- to this portion of the
11 Election Code?

12 A. Yes.

13 Q. And is that then followed up with language on
14 Page 28 with a requirement that a watcher may not be
15 denied free movement where election activity is
16 occurring within the location at which the watcher is
17 serving?

18 MS. SPECTOR: Object to form.

19 A. Yes.

20 Q. (BY MS. PERALES) And then in Paragraph (f)
21 there am I reading it correctly when I say, in this
22 code, a watcher who is entitled to, quote, "observe",
23 unquote, an election activity is entitled to sit or
24 stand near enough to see and hear the activity?

25 MS. SPECTOR: Object to form.

1 A. Yes.

2 Q. (BY MS. PERALES) And this is the free
3 movement that you were describing earlier in your
4 testimony, is that right?

5 A. Yes.

6 MS. SPECTOR: It's almost time for a
7 break, but just keep going, and when it's convenient --

8 MS. PERALES: This is my last question.

9 MS. SPECTOR: Okay. I'm sorry.

10 Q. (BY MS. PERALES) Did you receive any guidance
11 from the Secretary of State about the meaning of the
12 word observe here in this Section 4.07 of SB 1?

13 A. No.

14 MS. PERALES: I am done with this part.

15 MS. SPECTOR: Oh, okay. Great. Yeah.

16 VIDEOGRAPHER: We are off record at 11:32
17 a.m.

18 (Off the record.)

19 VIDEOGRAPHER: We are back on record at
20 11:53 a.m.

21 Q. (BY MS. PERALES) Are we ready?

22 A. I am.

23 Q. Let us just finish up with this discussion
24 about poll watchers by turning to -- on Page 29 of
25 Exhibit 5, Section 4.09, there is some added language

1 there to Paragraph (a), do you see that Ms. Wise?

2 A. Yes.

3 Q. Can you read me Paragraph (a) as -- in its --
4 in its entirety now with the amendments by SB 1?

5 A. "A person commits an offense if the person
6 serves in an official capacity at a location at which
7 the presence of watchers is authorized and knowingly
8 prevents a watcher from observing an activity or
9 procedure the person knows the watcher is entitled to
10 observe, including by taking any action to obstruct the
11 view of a watcher or distance the watcher from the
12 activity or procedure to be observed in a manner that
13 would make observation not reasonably effective."

14 Q. Thank you. Have you received any guidance
15 from the Secretary of State about what it means for a
16 poll worker to obstruct the view of a watcher?

17 MS. SPECTOR: Object to form.

18 A. No.

19 Q. (BY MS. PERALES) Have you received any
20 guidance from the Texas Secretary of State about the --
21 what it means for a poll worker to improperly, or in
22 violation of this paragraph, distance the watcher from
23 the activity?

24 MS. SPECTOR: Object to form.

25 A. No.

1 Q. (BY MS. PERALES) Have you received any
2 guidance from the Texas Secretary of State about what
3 action by a poll watcher would, quote, "make observation
4 not reasonably effective", unquote?

5 MS. SPECTOR: Object to form.

6 A. No.

7 Q. (BY MS. PERALES) What have you told your poll
8 workers about what it means -- what -- what activity by
9 them would be obstructing the view improperly now?

10 MS. SPECTOR: Object to form.

11 A. I don't know if we've got into the -- I'm
12 sorry -- gone into specifics about that.

13 Q. (BY MS. PERALES) Okay. Do you know whether
14 if a poll worker inserted themselves between a voter and
15 a watcher who was standing too close, in the opinion of
16 the poll worker, whether that would be now an offense
17 under the Election Code?

18 MS. SPECTOR: Objection, calls for legal
19 conclusion.

20 A. Yeah. I don't know for sure. That might be
21 something -- if we received a report about that, that I
22 would either, you know, talk with our county attorney or
23 consult the Code if it was something that was happening.

24 Q. (BY MS. PERALES) When I'm quiet I'm switch --
25 I am skipping over questions, so quiet is good.

1 I asked you how much poll workers were
2 paid, but I didn't ask you the type of hours that they
3 work on a typical day of voting, can you describe to me,
4 roughly, at what time the poll workers would arrive, and
5 then what time they would leave?

6 MS. SPECTOR: Object to form.

7 A. So Election Day, the Code only allows us to
8 pay poll workers for an hour prior to opening, so they
9 are instructed to arrive at six on Election Day, and,
10 dependent upon when they process their last voter, and
11 if they are the drop-off team, generally, it could be
12 14, 15 hours.

13 Q. (BY MS. PERALES) Now that we've gone over
14 these provisions related to poll watchers, including the
15 creation of an offense for obstructing the view, or
16 making observation not really -- reasonably effective,
17 including these limitations on removing poll watchers
18 and -- and the other provisions that we've covered, do
19 you have any concerns in generally -- in general, about
20 these new provisions related to poll watchers, and how
21 poll workers are going to interact with them?

22 MS. SPECTOR: Object to form.

23 A. Yes. I mean, my -- my biggest concern is --
24 is not the poll watchers in general, because again we
25 have no issue with poll watchers in general, it's the

1 cases where they are being intrusive, or they're being
2 obstructive, or they're being loud, walking around,
3 saying that free movement means -- this is what I'm --
4 again, speculation, but just based on what we've had
5 with the issues we've had before is that free movement
6 means I can go in here, or can I -- you know, I can do
7 this, and just making sure that our poll watchers have
8 some -- our poll workers have some coverage on that of
9 no, that is not what free movement means. And any time
10 we tell someone, you know, you are not allowed by law --
11 not any time but 99 percent, a lot of them will say
12 well, show me in the law where that says that.

13 And so I -- my concern is that,
14 especially with the free movement portion, that we could
15 see a repeat of 2020, and not knowing what they can do,
16 or are they going to feel like I can't even have them
17 removed. Can I? I -- you know, I just -- that's on top
18 of already running the election, so I -- I am concerned
19 that they're -- it's vague.

20 Q. (BY MS. PERALES) Do you believe that even
21 after a few election cycles, the types of concerns that
22 you've expressed could still be a problem?

23 MR. JEFFREY WHITE: Objection, form.

24 MS. SPECTOR: Object to form.

25 A. They could be, yes.

1 Q. (BY MS. PERALES) I'd like to turn now to vote
2 by mail, and specifically to Section 5.07, which starts
3 on Page 38 of Exhibit 5, and, if you could for me,
4 towards the bottom of Page 38 where it says Section
5 5.07, if you could read what is in Paragraph (f) for me?

6 A. "If the information required under Section
7 84.002(a) (1-a) included on the application does not
8 identify the same voter identified on the applicant's
9 application for voter registration, the clerk shall
10 reject the application."

11 Q. And do you understand this provision then to
12 require you to match an ID number that's on the
13 application for ballot by mail to the voter's voter
14 registration record ID number?

15 MS. SPECTOR: Object to form.

16 A. Yes.

17 Q. (BY MS. PERALES) And if you would turn for --
18 I'm going to try to tackle both of these at the same
19 time, let's see how successful I am.

20 If you will turn forward to Section 5.13
21 on Page 45, do you see at the top of Page 45 where it
22 says Section 5.13?

23 A. Yes.

24 Q. Do you see where it has Paragraph (b), "A
25 ballot may be accepted only if," and then there is a

1 colon?

2 A. Yes.

3 Q. And then down at the bottom of the page, do
4 you see the addition of language in Indent No. 8 that
5 says, quote, "The information required under Section
6 86.002 (g) provided by the voter identifies the same
7 voter identified on the voter's application for voter
8 registration under Section 13.002(c)(8)", unquote?

9 A. Yes.

10 Q. And do you understand this to be a requirement
11 that on a returned mail ballot, your office has to match
12 the ID number provided on the returned mail ballot
13 envelope to the voter's voter registration record ID
14 number?

15 MS. SPECTOR: Object to form.

16 MR. JEFFREY WHITE: Objection, form.

17 A. Yes.

18 Q. (BY MS. PERALES) I wanted to explore with you
19 why you think there were occasions on which you did not
20 have an ID number associated with the voter's voter
21 registration.

22 Do you have any ideas about why you might
23 have lacked an ID number on your voter's voter
24 registration record, so that you could not match it or
25 process either their ABBM or their mail ballot?

1 MS. SPECTOR: Object to form.

2 A. I have one example that I actually spoke to a
3 group about two weeks ago, and a woman said my friend
4 was unable to get both an applica -- or both -- I'm
5 sorry, an application, the ballot. And I said okay,
6 tell me what happened? And she said she told me that
7 she put one of the identifiers on there, and she said I
8 -- I don't know for sure, because I was not there --

9 Q. (BY MS. PERALES) Uh-huh.

10 A. -- but that it was rejected, and then she said
11 that on the next one, the next application she put both
12 identifiers on there. She said I saw it, I know it.
13 And I said well, let me have the woman's name, and let
14 me look and see what the situation is.

15 So we went in to see what the issue was,
16 and she had registered at a time -- she was elderly --
17 that she did not need one of those items. And because
18 of the -- you know, she requested not -- not in the very
19 beginning of January, but later closer to the deadline,
20 so she requested we reject it.

21 She did put two identifiers on, but then
22 we got that, we did not have any, so we sent, initially
23 sent the voter registration form. She didn't want --
24 she said I've already been registered, and so,
25 unfortunately, she wasn't able to get the ballot, and so

1 we spoke with her and explained the situation, and that
2 she did need to fill out another registration with that
3 information.

4 But so that's an example I know that
5 somebody who may be older may not have those on their --
6 on their registration form.

7 Q. Did that voter end up voting in the March
8 primary?

9 A. No.

10 Q. Are you aware that there was a time when, in
11 order to register to vote, you did not have to provide
12 either a driver's license number or the last four of
13 your social?

14 A. I am.

15 Q. Do you know when that requirement came into
16 effect?

17 A. I do not.

18 MS. SPECTOR: Object to form.

19 THE WITNESS: I'm sorry.

20 MS. SPECTOR: Go ahead.

21 A. I do not.

22 Q. (BY MS. PERALES) Have you ever heard anybody
23 mention the Help America Vote Act requirement that you
24 put your driver's license or the last four of your
25 social?

1 MS. SPECTOR: Object to form.

2 A. Yes.

3 Q. (BY MS. PERALES) And do you remember the Help
4 America Vote Act coming about after the 2000 election,
5 the Bush v Gore?

6 MS. SPECTOR: Object to form.

7 A. I do.

8 Q. (BY MS. PERALES) And so when you mention
9 someone being elderly, and not having registered with a
10 driver's license or social, would it also be true that
11 somebody might simply be middle aged or my age and just
12 if, you know, if they registered early enough and stayed
13 registered, that number would also not be on file for
14 them?

15 MS. SPECTOR: Object to form.

16 A. Correct. If they never updated with that
17 information, then yes. This was an elderly example.
18 She was elderly, so -- and I spoke with her. She -- she
19 would admit that to you. This is not speaking out of
20 school. She would have said yes.

21 Q. (BY MS. PERALES) So do you know when a
22 voter's voter registration record would get updated with
23 a driver's license number or the last four of a social?

24 MS. SPECTOR: Object to form.

25 A. If they updated a voter registration if they

1 were to move or update, and they were to put that
2 information on there, it would be updated. We get
3 updates from people that go to the DPS and renew their
4 driver's license. It -- so they may include more
5 information on that one if they didn't prior to Java.
6 So it generally takes a move or maybe a renewal to get
7 that information on there.

8 Q. (BY MS. PERALES) Do you know if every time
9 someone goes to DPS to renew their driver's license that
10 information about their ID number would be transmitted
11 to their voter registration record?

12 MS. SPECTOR: Object to form.

13 A. I believe it's only if they mark the box,
14 register to vote.

15 Q. (BY MS. PERALES) And if they were already
16 registered they would not mark that box, is that
17 correct?

18 MS. SPECTOR: Object to form.

19 A. They may not. I don't know for sure if they
20 would or would not.

21 Q. (BY MS. PERALES) If someone changes address
22 in El Paso County, and they update their voter
23 registration record, could they update their voter
24 registration record without providing a driver's license
25 or last four of social?

1 MS. SPECTOR: Object to form.

2 A. The online portal, which is address update
3 only, that the State provides -- I don't remember if it
4 requires that they put that on there. I have to tell
5 you the truth.

6 Q. (BY MS. PERALES) Okay. Did you receive calls
7 from voters expressing confusion about why they were
8 being sent a new voter registration form with their
9 rejected mail ballot or ABBM --

10 MS. SPECTOR: Object --

11 Q. (BY MS. PERALES) -- because the voter was
12 already registered to vote?

13 MS. SPECTOR: Object to form.

14 A. Yes.

15 Q. (BY MS. PERALES) More than one call?

16 A. Yes. And -- and we took a step to say now on
17 that notice where we talked about being rejected, we've
18 enclosed a voter registration application so that you
19 may use the same identifier on this and be able to match
20 up, to avoid having to send it in again, in some
21 language like that.

22 Q. And when you say you included that information
23 in your notice to the voter, would that be in the El
24 Paso County specific notice as opposed to the Secretary
25 of State's notice?

1 A. Correct.

2 Q. And you felt it was necessary to provide some
3 more explanation or context around why you were sending
4 a new voter registration form, is that right?

5 A. Yes.

6 Q. Did you have voters who attempted to correct
7 their mail ballot or ABBM by submitting it a second time
8 with new or different ID information that you then
9 rejected a second time, because you could not match that
10 number?

11 MS. SPECTOR: Object to form.

12 A. Yes.

13 Q. (BY MS. PERALES) More than one occasion?

14 A. Yes.

15 Q. More than 50?

16 A. That, I don't -- I couldn't say for sure.

17 Q. Did you keep track of how many times you might
18 have rejected an ABBM or a mail ballot for a particular
19 voter?

20 A. I don't believe that we did on the
21 application; the ballot side of it, possibly. I'd have
22 to look and see if we did.

23 Q. Did you do any logging of how many ABBMs you
24 rejected for insufficiency on the form?

25 MS. SPECTOR: Object to form.

1 A. Yes.

2 Q. (BY MS. PERALES) But then I believe with Mr.
3 White yesterday, you may have mentioned that that would
4 include SB 1 reasons and non SB 1 reasons?

5 MS. SPECTOR: Object to form.

6 A. It does, and we did break that down, though.
7 I believe that's in a document.

8 Q. (BY MS. PERALES) Okay.

9 A. But it's -- so it's broken down by this many
10 were rejected IR, which is the code that we -- or IRIS
11 is the code in our system, no signature, party not
12 selected, and then the two that I said that weren't in
13 the system to begin with. So we do, we did break it
14 down in that way.

15 Q. Okay. So would it be fair to say that a voter
16 might have had the experience of submitting an ABBM with
17 an ID number, and your office was unable to match that
18 number to the voter registration record and rejected
19 that ABBM?

20 MS. SPECTOR: Object to form.

21 A. Yes.

22 Q. (BY MS. PERALES) And it's possible that in
23 some of those cases, the voter might have simply not
24 followed up after that and not voted in the election, is
25 that right?

1 Q. (BY MS. PERALES) Did you do any training, did
2 you office do any training with El Paso County election
3 workers or poll workers about these new requirements on
4 assistors?

5 MS. SPECTOR: Objection to form.

6 A. Only in the section where we cover new forms,
7 so we just explained that portion of it, but -- but
8 that's the extent of it.

9 Q. (BY MS. PERALES) Have you trained election
10 workers yet on the fact that assistors are now limited
11 to providing assistance in the form of reading and
12 marking the ballot?

13 MS. SPECTOR: Objection to form.

14 MR. JEFFREY WHITE: Objection, form.

15 A. I don't know if we specified that portion in
16 the training, it's -- like I said, it's been mostly just
17 this is the form, this is what the assistor signs now,
18 and really, frankly, that's about the gist of it.

19 Q. (BY MS. PERALES) Do you know how you would
20 answer a poll worker if they asked you hey, we have a
21 deaf voter here at the polling place who wants to use an
22 assistor to communicate with us while checking in to
23 vote, but that's not reading and marking the ballot,
24 what do I do --

25 MS. SPECTOR: Objection --

1 Q. (BY MS. PERALES) -- how would you advise that
2 poll worker?

3 MS. SPECTOR: Objection to form. Sorry,
4 Nina.

5 A. Generally, if there is a question on the Code
6 that I don't -- that I am not comfortable with giving
7 them advice on, I would contact the County Attorney's
8 Office and just say look, the new law is in place, here
9 is their question, what -- you know, what would you
10 recommend that I answer?

11 Q. (BY MS. PERALES) Did you do any training with
12 your election workers about what to do if an assistor
13 signed in and said they were receiving compensation --

14 MS. SPECTOR: Object to form.

15 Q. (BY MS. PERALES) -- from a candidate?

16 MS. SPECTOR: Sorry.

17 MS. PERALES: I'm sorry, no --

18 MS. SPECTOR: Yeah.

19 MS. PERALES: -- it's entirely my fault.

20 MS. SPECTOR: No, no, it's mine, it's
21 mine.

22 A. No, we did not.

23 Q. (BY MS. PERALES) Do you know how you would
24 answer a question from a poll worker who calls you and
25 says I have an assistor here, but they are also being

1 paid by, I don't know, the PAC in favor of white
2 elephants, I don't know, just something -- just
3 something?

4 If a -- if an assistor said yeah, I am,
5 I'm actually -- I came over here from the so-and-so
6 campaign, this voter asked for my help, how would you
7 advise the poll worker who calls you and says what do I
8 do, they checked yes on the form?

9 MS. SPECTOR: Objection to form.

10 A. I would call my County Attorney's Office and
11 ask for direction on what we thought, how we would
12 handle that.

13 Q. (BY MS. PERALES) Are you aware whether
14 Senator Blanco testified regarding these provisions in
15 SB 1, that it would have an adverse impact on Spanish-
16 speaking voters in El Paso County?

17 MS. SPECTOR: Objection to form.

18 A. I believe he did.

19 Q. (BY MS. PERALES) Do you know anything more
20 about what he might have said about the effect of the
21 assistor provision, specifically on Spanish-speaking
22 voters in El Paso?

23 MS. SPECTOR: Objection to form.

24 A. I'm sorry, I don't remember the testimony.

25 Q. (BY MS. PERALES) Do you have any concerns

1 about how this new limitations on the scope of
2 assistance -- and by that I mean limitation on
3 assistance to just reading and marking the ballot -- do
4 you have any concerns about how that might affect
5 limited-English-proficient voters in El Paso County?

6 MR. JEFFREY WHITE: Objection, form.

7 MS. SPECTOR: Objection to form.

8 A. Yes, I do.

9 Q. (BY MS. PERALES) What would those concerns
10 be?

11 A. That if they did not understand maybe a
12 proposition or something like that, the ballot language,
13 that taking out the answering questions, at least,
14 portion of that, and frankly for all, even native
15 English speakers, that the proposition language, if you
16 have a question in mind and have -- want to ask the
17 assistor, that that doesn't allow that, and so they
18 would have less information.

19 Q. Do you have those kinds of voting machines,
20 here in El Paso County, where the voter votes on a touch
21 screen electronic machine, but then receives this paper
22 output that they have to then go and deposit into a
23 separate machine?

24 MS. SPECTOR: Objection to form.

25 A. Yes.

1 Q. (BY MS. PERALES) Okay. And was it your
2 experience that voters were somewhat confused about
3 having to vote on the machine, then get the paper and
4 then take it over and drop it into this other black box?

5 A. Yes.

6 Q. All right. Do you think that if an assistor
7 is unable to explain that process of taking the paper
8 receipt and then dropping it into the separate machine,
9 let's say to a Vietnamese-speaking voter, that that
10 might make it more difficult for that Vietnamese-
11 speaking voter to cast their ballot?

12 MR. JEFFREY WHITE: Objection, form.

13 MS. SPECTOR: Objection to form.

14 A. Yes.

15 Q. (BY MS. PERALES) By the way, you don't call
16 that second box a trash can, do you?

17 A. No.

18 Q. You've heard it, though, haven't you?

19 A. Yes.

20 Q. Do you have any concerns that disabled voters
21 might experience more problems voting because of the new
22 limitations on voter assistance to just reading and
23 marking the ballot, because, for example, it may limit
24 their --

25 (Sneeze.)

1 THE WITNESS: Bless you.

2 Q. (BY MS. PERALES) -- ability -

3 THE WITNESS: Bless you.

4 MS. PERALES: Bless you.

5 MS. SPECTOR: Sorry. Thank you.

6 Q. (BY MS. PERALES) -- to use an assistor to
7 help them navigate the polling place?

8 MR. JEFFREY WHITE: Objection, form.

9 A. So for physical assistance?

10 Q. (BY MS. PERALES) Yes.

11 A. Yes, I do.

12 Q. And also to the extent that it sort of,
13 disability in language may come together, for example,
14 in a voter who is blind or deaf, and who can't do a
15 traditional read and mark of a ballot -- you had
16 mentioned before there were perhaps blind voters who
17 didn't want to use the audio ballot, and wanted to use
18 their own assistor -- do you have any concerns that
19 these new limitations to reading and marking the ballot
20 might make it more difficult for that type of blind
21 voter to cast a ballot?

22 MS. SPECTOR: Objection to form.

23 MR. JEFFREY WHITE: Objection, form.

24 A. If they're not able to be led to the machines
25 and to the DS200, then yes.

1 A. It has in the past, yes.

2 Q. (BY MS. PERALES) Okay. If the League of
3 Women Voters, or a similar non-partisan organization,
4 were to receive a request from a voter to help them with
5 their mail ballot, and the League of Women Voters, or
6 that organization, asked their secretary or
7 receptionist, go ahead and help this person with their
8 mail ballot, do you think that activity is now illegal
9 under Section 6.06 of SB 1?

10 MS. SPECTOR: Objection, calls for legal
11 conclusion, calls for speculation.

12 MR. JEFFREY WHITE: Objection, form.

13 A. If they fill out the assistance oath?

14 Q. (BY MS. PERALES) If they fill out the
15 assistance oath, but it's a secretary or receptionist of
16 that organization?

17 MR. JEFFREY WHITE: Objection, form.

18 MS. SPECTOR: Same objections.

19 A. I don't believe so.

20 Q. (BY MS. PERALES) Would the individual who is
21 doing the assisting be compensated, because they are an
22 employee of the organization?

23 MS. SPECTOR: Objection, calls for
24 speculation.

25 A. Compensated for helping with the ballot, or

1 just in -- that -- that's the question for me --

2 Q. (BY MS. PERALES) I see.

3 A. -- is, is it specific to your being
4 compensated for that duty, or, in general, you are an
5 employee? So I would say probably not; however, if I
6 really had questions, I would ask the county attorney.

7 Q. Okay. So let's say a non-partisan nonprofit
8 organization wants to send canvassers door to door to
9 promote a ballot measure to improve drainage
10 infrastructure, and the canvassers are paid and they're
11 going door to door, and Ms. Hernandez is there and she
12 says oh, this is great, I'd love to hear more about this
13 drainage issue, come in, I have my ballot, maybe you can
14 help me, do you think the canvasser who gets paid is
15 potentially going to be concerned about assisting that
16 voter with their mail ballot because of this new
17 provision?

18 MS. SPECTOR: Objection, calls for legal
19 conclusion, calls for speculation.

20 MR. JEFFREY WHITE: Objection, form.

21 A. I think they would be, and I would suggest
22 that they contact an attorney if we got a call about
23 that.

24 Q. (BY MS. PERALES) Would you agree with me that
25 Section 6.06 is not limited to payment by a campaign or

1 a candidate?

2 MS. SPECTOR: Objection, calls for legal
3 conclusion.

4 A. Yes.

5 Q. (BY MS. PERALES) Turn with me, if you would,
6 to 7.04, which starts on Page 58. You will see 7.04
7 starts on Page 58 and flows on to Page 59.

8 Are you familiar with this provision in
9 SB 1, this 7.04 vote harvesting provision?

10 A. Yes, I am.

11 Q. Okay. And if you look down to Paragraph (b),
12 am I reading it correctly -- well, here we go. It's
13 actually (c) -- hold on, hold on, hold on. Let me get
14 to the definition.

15 Okay. It's actually Paragraph 2, Line 7.

16 Would you agree with me that in this part
17 of SB 1, vote harvesting services means in-person
18 interaction with one or more voters, in the physical
19 presence of an official ballot or a ballot voted by
20 mail, intended to deliver votes for a specific candidate
21 or measure?

22 MR. JEFFREY WHITE: Objection, form.

23 MS. SPECTOR: Objection to form.

24 Q. (BY MS. PERALES) Did I read that correctly?

25 A. Yes.

1 fraud?

2 MS. SPECTOR: Objection to form.

3 A. No.

4 Q. (BY MR. GRAHAM WHITE) Were you -- are you
5 aware of any voter fraud that occurred at any of these
6 polling sites during the extended voting hours in 2020?

7 A. No.

8 Q. And yesterday, you testified that during early
9 voting at these sites, there were people waiting in line
10 when the polls close at 10 p.m., is that right?

11 A. There were a couple, yes.

12 Q. Okay. Were there particular polling places
13 where this was a common occurrence?

14 MS. SPECTOR: Objection to form.

15 A. No. The last week is generally the busiest.
16 I believe it was the last two days at a few sites.

17 Q. (BY MR. GRAHAM WHITE) Okay. Do you know if
18 any voter showed up after 10 p.m. when the polls closed?

19 MS. SPECTOR: Objection to form.

20 A. I actually do have, yes, that did happen at
21 one location.

22 Q. (BY MR. GRAHAM WHITE) Okay. Which location
23 was that?

24 A. It's called -- it used to be called Carolina
25 Community Center, now it's Officer David Ortiz.

1 Q. How many voters showed up after 10 p.m. at
2 that location?

3 A. I just know of one car, of -- of -- of a
4 gentleman. I don't know if he had more than himself,
5 but I just know it was that.

6 Q. Okay. And was he turned away from the polling
7 places?

8 MS. SPECTOR: Objection to form.

9 A. He was.

10 Q. (BY MR. GRAHAM WHITE) Okay. What time did
11 polls close in El Paso County on Election Day in 2020,
12 during the general election?

13 A. 7 p.m.

14 Q. Do you know if there were people waiting
15 online at any polling sites on Election Day?

16 A. Yeah.

17 Q. I'm sorry. Let me -- let me rephrase.

18 A. Okay.

19 Q. Do you know if there were people waiting
20 online when the polls closed on Election Day in 2020?

21 A. Yes, there were.

22 Q. Were there particular polling sites where this
23 was a more common occurrence than others?

24 A. Yeah. I mean, we had a handful. I know at
25 least that we were processing till 9:00 or 9:30, I

1 believe.

2 Q. Do you recall specifically what neighborhoods
3 this might have -- was this a problem that occurred in
4 specific neighborhoods?

5 A. It varied. We have high turnout, our -- our
6 high our high-turnout areas was the same, some west,
7 some central and a few east.

8 Q. Okay. Was the west, did this occur more --
9 more often at polling sites in -- located in the west?

10 MS. SPECTOR: Objection, form.

11 A. I believe so.

12 Q. (BY MR. GRAHAM WHITE) Okay. And similar
13 question to what I asked before, do you know if there
14 were voters who showed up after polls closed at any of
15 these sites on Election Day?

16 MR. JEFFREY WHITE: Objection, form.

17 A. I don't remember specifically, but, honestly,
18 every election we have a couple people, at least, that
19 show up after the polls close. We get calls, and
20 they've already picked up and it's after seven, and so I
21 -- I can't remember specifically, but I am guessing we
22 had a few.

23 Q. Okay. And when these voters show up after the
24 polls close, they are turned away, is that right?

25 A. Correct.

1 Q. Okay. So in your experience then, does
2 keeping polling sites open for longer periods of time
3 make voting more accessible?

4 MS. SPECTOR: Objection to form.

5 A. Yes, I would say so.

6 Q. (BY MR. GRAHAM WHITE) Let me also ask you the
7 -- the inverse of that.

8 In your experience, does shortening the
9 -- the amount of time that when places are open make
10 voting more burdensome?

11 MS. SPECTOR: Objection to form.

12 MR. JEFFREY WHITE: Objection, form.

13 A. Yes. For those voters that wanted to vote at
14 that location, definitely.

15 Q. (BY MR. GRAHAM WHITE) Okay. I want to switch
16 topics and ask a few follow-up questions about partisan
17 poll watchers.

18 So you testified earlier that you were
19 not aware of any poll watchers serving at any polling
20 places in the March primary of this year, is that right?

21 A. Correct.

22 Q. And for the record, apart from the March
23 primary, were there -- has your office administered any
24 other elections since SB 1 has passed?

25 A. Did we have a small December election? I

1 believe we had a small December election, I think, but
2 it was -- this, we had no poll watchers. It was a very
3 small entity, two or three races.

4 Q. Okay. So that was going to be my next
5 question.

6 So no -- no poll watchers --

7 A. No.

8 Q. -- at this other election?

9 Okay. Yesterday, you described the poll
10 watcher training program as one of the helpful
11 provisions of SB 1, do you remem -- do you recall that?

12 A. Yes.

13 Q. And why do you think that provision is
14 helpful?

15 MS. SPECTOR: Objection to form.

16 A. I think that these poll watchers that show up,
17 even if well-intentioned, if they are not sure what
18 they're allowed to do, what not allowed to do, then the
19 chance of them complying with the law is -- is -- is
20 pretty -- is pretty small. So --

21 Q. (BY MR. GRAHAM WHITE) Uh-huh.

22 A. -- it's -- even during, before the training
23 when we would talk about the Poll Watcher's Guide, some
24 of them had never even seen it, had never been told by
25 their appoint -- appointee that that was -- even

1 do the best that we can.

2 Q. Okay. Can you speak a little bit more about
3 your decision-making process for whether to accept,
4 ultimately accept that second application that you were
5 just talking about?

6 MS. SPECTOR: Objection to form.

7 A. Yes. I don't -- you know, it was -- we
8 thought may -- we thought it was, but when the voter
9 said no, it wasn't, we didn't have anything to really
10 base that on, so we just accepted it.

11 Q. (BY MR. GRAHAM WHITE) Yeah. Did the
12 Secretary of State's Office provide you with any
13 guidance on how to identify photocopied signatures?

14 A. No.

15 Q. And as for the first potentially photocopy
16 application that you had mentioned, it -- was it your
17 testimony that this person submitted a correct
18 application after that, or what happened there?

19 MS. SPECTOR: Objection to form.

20 A. Yes.

21 Q. (BY MR. GRAHAM WHITE) Okay. Before SB 1, are
22 you aware of any instances where somebody used an
23 electronic signature to apply for a vote by mail ballot?

24 A. The only time we would see an electronic
25 signature would be sometimes they would send a request

1 in online. And so we would tell them, you have to send
2 us a wet signature within four days, an original copy is
3 how the -- how the -- a hard copy within four days, not
4 the wet signature, I'm sorry. You have to have a hard
5 copy of this application within four business days,
6 which is how the Code is -- was specified.

7 Q. Do you have a sense of how often you saw those
8 electronic signatures on applications before SB 1?

9 A. Not many, I mean, it wasn't -- it wasn't -- it
10 wasn't incredibly common, but it -- it was -- it did
11 happen.

12 Q. Okay. And before SB 1, are you aware any
13 instances where somebody applied using a photocopied
14 signature on an application?

15 A. No.

16 Q. And before SB 1, to get back, are you aware of
17 any instances of somebody falsifying a signature on a
18 vote by mail application?

19 MS. SPECTOR: Objection to form.

20 A. No.

21 Q. (BY MR. GRAHAM WHITE) Okay. I want to turn
22 to a different provision of SB 1 that I don't believe
23 you have been asked about, which is on -- if you can
24 turn to Page 21 of Exhibit 5, and -- and if you can look
25 at Lines 18 to 20, and read those aloud, please?

1 THE WITNESS: I'm sorry.

2 A. "Voting system ballots may not be arranged in
3 a manner that allows a political party's candidates to
4 be selected in one motion or gesture."

5 Q. Is it -- is it okay if I refer to this process
6 of voting for one party's candidates at once is straight
7 ticket voting?

8 A. Yes.

9 Q. Have you ever administered an election that
10 had straight ticket voting on a ballot?

11 A. Not since it was removed from the options in
12 --

13 Q. Sure.

14 A. -- in -- after 2018, but yes, prior to that,
15 yes.

16 Q. Prior to 2018?

17 A. Yes.

18 Q. Okay. Are you aware of any instances of fraud
19 in connection with straight ticket voting?

20 A. No.

21 Q. Do you think that straight ticket voting makes
22 voter fraud more likely?

23 MS. SPECTOR: Objection to form.

24 A. No.

25 Q. (BY MR. GRAHAM WHITE) Okay. Do you recall

Attachment 13

Lisa Wise

**April 18, 2023 Deposition
Excerpts**

Lisa Wise

April 18, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO)
ENTERO, et al.,)
)
Plaintiffs,)
)
vs.)
) NO. 5:21-cv-844-XR
GREGORY W. ABBOTT, et al.,)
)
Defendants.)

ORAL AND VIDEOTAPED DEPOSITION OF

LISA WISE

April 18, 2023

(REMOTELY REPORTED)

The Oral and Videotaped Deposition of LISA WISE,
produced as a witness at the instance of the defendant,
and duly sworn, was taken in the above-styled and
numbered cause on the 18th of April, 2023 from 9:13 a.m.
to 3:27 p.m., in and for the State of Texas, reported by
machine shorthand, conducted El Paso County Courthouse
500 E. San Antonio, 5th Floor, Suite 503 El Paso, Texas
79901, pursuant to the Federal Rules of Civil Procedure
and the provisions stated on the record or attached
hereto.

1 Office at the summer seminar, have you gone through any
2 professional training or coursework?

3 A. No.

4 Q. Since your last deposition in this case, have
5 you had any additional responsibilities added to your
6 office?

7 MS. LEBEL: Objection. Form.

8 Q. (BY MS. HUNKER) If you want, I can rephrase.

9 A. Yes, please.

10 Q. Sure.

11 Have you, yourself, assumed any additional
12 responsibilities since you were deposed last time in
13 this case?

14 MS. LEBEL: Objection. Form.

15 A. I don't know if this is an answer to that, but
16 we have -- since the last time I was deposed, we had a
17 process for petition verification, which we had not done
18 since I began this deposition. And so we were
19 overseeing that process.

20 So I don't know if that's relevant, but
21 that's something that we've done that we haven't done
22 since I started.

23 Q. (BY MS. HUNKER) And you were in the same role,
24 the Elections Administrator of El Paso County, correct?

25 A. Yes.

Lisa Wise

April 18, 2023
Page 13

1 Q. Ms. Wise, I'm going to introduce our first
2 exhibit.

3 Do you have the exhibit in front of you?

4 A. I do.

5 Q. Do you recognize this exhibit?

6 A. Yes.

7 Q. If you turn to the second page, you'll see the
8 title reading "State's Defendants Amended Notice of
9 Intent to Take Oral and Videotaped Deposition of the
10 Office of the El Paso County Elections Administrator
11 Pursuant to Rule 30(b)(6)."

12 Did I read that correctly?

13 A. Yes.

14 Q. And if we continue to turn the page, you'll see
15 towards the end where it says "Topics for Examination."

16 Do you understand that you are here today
17 pursuant to this notice?

18 A. Yes.

19 Q. Do you understand that the office of the
20 El Paso County Elections Administrator has designated
21 you to provide testimony on its behalf?

22 A. Yes.

23 Q. And do you understand that your answers here
24 today are binding on the organization?

25 A. Yes.

1 Q. Are you prepared to testify on the topics
2 listed in this notice?

3 A. Yes.

4 (Exhibit 1 marked.)

5 Q. (BY MS. HUNKER) Now, can you tell me whether
6 you regard the overall election process for the General
7 Election in 2022 in El Paso County as having been
8 relatively successful?

9 MS. LEBEL: Objection. Form.

10 A. I do.

11 Q. (BY MS. HUNKER) Would you say that it was more
12 successful than the processes that occurred in the
13 primary election earlier in 2022?

14 MS. LEBEL: Objection. Form.

15 A. Yes, I do.

16 Q. (BY MS. HUNKER) How many early voting
17 locations did you have for the November 2022 General
18 Election?

19 A. 33.

20 Q. And how many did you have on election day?

21 A. 118.

22 Q. Do you know if the number of early voting
23 locations in November 2022 was greater or less than the
24 number of earlier voting locations in November 2018?

25 MS. LEBEL: Objection. Form.

1 A. I don't remember the exact number in 2018. I
2 believe we were still using mobile voting at that point.
3 I believe it's close, but I don't remember the exact
4 number.

5 MS. HUNKER: I'm going to introduce Exhibit
6 No. 2.

7 (Exhibit 2 marked.)

8 Q. (BY MS. HUNKER) Do you have the exhibit in
9 front of you?

10 A. I do.

11 Q. Do you recognize the exhibit?

12 A. I do.

13 Q. And what is it?

14 A. This is the list of our early voting locations
15 for November 2022.

16 Q. And is this an accurate list?

17 A. Yes.

18 Q. How did you make a determination on where the
19 early voting locations should be located?

20 MS. LEBEL: Objection. Form.

21 A. Many of those sites were already established
22 before I started in my office. But we did add more
23 locations based on location and the geography, based on
24 where we were getting places that we thought were short
25 in the county that were underserved, based on interior

1 maybe something on an application, a little note like,
2 why do I have to fill this out, like, something like
3 that. But mostly phone.

4 Q. (BY MR. STEWART) Was most of that feedback
5 regarding the ID requirement?

6 MS. LEBEL: Object to form.

7 MS. HUNKER: Objection. Form.

8 A. Was the feedback about the ID requirement
9 regarding the ID?

10 Q. (BY MR. STEWART) Yeah. I guess that's -- let
11 me --

12 A. Sorry.

13 Q. -- strike that question and make -- make it
14 much clearer.

15 I guess I would say, what portion of the,
16 you know, overall feedback you received from voters
17 during the General Election period pertained to the ID
18 requirement?

19 MS. LEBEL: Object to form.

20 MS. HUNKER: Object to form.

21 A. It's hard for me to really quantify that,
22 honestly. Because, like I said, we really didn't
23 keep -- keep track of it in, like, how many calls we got
24 about the ID. But we did still spend a lot of time
25 explaining ID -- ID requirements to -- to voters that

1 were on it to vote by mail.

2 Q. (BY MR. STEWART) Did you generate any topics
3 for future voter education based on what you were
4 hearing from voters?

5 A. So generally we do a pretty robust media
6 package for presidential years 'cause we always have
7 something that comes up.

8 For example, in 2024 -- I'm sorry. In
9 2020, we had the pandemic. So in 2024, we will, again,
10 do a media package, and one of the components will be
11 the identifier. We will really try to replace some of
12 that pandemic language with the -- the identifier, the
13 changes, and, frankly, any major changes that come out
14 of this legislative session.

15 So we -- we try to do that because we have
16 a lot of voters who do only vote every four years, and
17 we like to -- you know, we don't have an endless budget,
18 so we kind of put that all in -- what we can in the
19 presidential years.

20 Q. I -- I believe you've already said, correct me
21 if I'm wrong, that at some point, your office began
22 advising voters to put both their driver's license or ID
23 number and their Social Security number on mail ballot
24 materials; is that correct?

25 A. Correct.

1 Q. That did not begin during the General --

2 right -- that predated the General?

3 A. That predated the General.

4 Q. Why did you continue to give that advice?

5 A. We had done that about -- we didn't do it
6 initially in March until we started to see these -- you
7 know, these rejection rates and these -- coming back, so
8 then we started to include it, I would say about,
9 halfway through the actual process in -- for the March
10 election.

11 So basically we just said, look, let's --
12 let's not wait for an application to be rejected, let's
13 just give them all this information at the very
14 beginning. So we -- if somebody asked us for, you know,
15 an application, then with the application we would send
16 them that information.

17 Now, people can also get an application on
18 our website or they could get it from a party. You
19 know, there might be other entities that send out the
20 application. We can't control that they didn't have the
21 insert or any of that information in there, and so we
22 may still receive applications that were not -- that
23 didn't comply with that requirement.

24 Q. Were there any ways besides the insert that you
25 transmitted that message to voters?

1 MS. LEBEL: Object to form.

2 MS. HUNKER: Object to form.

3 A. The social media, the -- you know, what we did
4 with interviews. Anything we could, we would try to get
5 that information out. But frankly, you know, the best
6 bang for the buck was with the application because they
7 were, we know, going to fill that out, and it was there
8 included in the packet.

9 MR. STEWART: I want to use -- I think
10 we're on number 5?

11 THE REPORTER: Yes.

12 Q. (BY MR. STEWART) And I don't want to rush you
13 reading it, but, in general, do you recognize this
14 document?

15 A. Yes.

16 Q. And what is this?

17 A. This is our application for ballot by mail.

18 Q. And your office uses the standard ABBM prepared
19 by the Secretary of State, correct?

20 A. We do.

21 Q. And you would agree that the portion that
22 implements the ID number requirement is below the
23 bold -- or the capital letters, rather, you must provide
24 one and then lower case of the following numbers?

25 A. Yes.

1 Q. And then, if you look at the second paragraph
2 under there, so after the first set of blanks, it says:
3 "If you do not have a Texas driver's
4 license, Texas personal identification number, or a
5 Texas election identification certificate number, give
6 the last four digits of your Social Security number."

7 Did I read that right?

8 A. Yes.

9 Q. And so would you agree this language appears to
10 establish a hierarchy wherein you only give a driver's
11 license number or identification number, identification
12 certificate number if you do not have -- excuse me.
13 Strike that.

14 Would you agree this language appears to
15 establish a hierarchy wherein you only give the last
16 four of your Social Security number if you do not have a
17 Texas ID card number?

18 MS. LEBEL: Object to form.

19 MS. HUNKER: Object to form.

20 A. Yes.

21 Q. (BY MR. STEWART) Was the insert meant to
22 address that?

23 MS. LEBEL: Object to form.

24 A. The insert was meant to address that, whether
25 you put social's last four or whether you put your

1 driver's license. Just because you put one on doesn't
2 necessarily mean that's the one that we have on file.
3 And so we were seeing where people were
4 putting one or the other, and it was very frustrating,
5 I'm sure for them as well as for us, to say, look,
6 that's not the one we have, that's not the one you
7 registered with whenever you registered. So it was just
8 basically to -- to combat that with whether you just put
9 the driver's license and we had the last sosh [sic],
10 just to fill both out.

11 Q. (BY MR. STEWART) Do you think this language
12 was misleading to voters?

13 MS. LEBEL: Object to form.

14 MS. HUNKER: Objection. Form.

15 A. I don't think it's written as well as it could
16 be, yes.

17 I -- I will say if I could, one of the
18 other things we did in the questionnaire as before is we
19 would highlight that box.

20 Q. (BY MR. STEWART) Okay.

21 A. So that they would be able to see that that is
22 what we're talking about with the insert.

23 Q. Would that be on the ABBM?

24 A. Yes. So with --

25 Q. I'm sorry. Go ahead.

1 A. I'm sorry. So when they asked for a ballot by
2 mail request, we'd send them the request with the
3 insert, and we would highlight that box.

4 Q. Did you highlight it on the carrier envelope as
5 well?

6 A. Yes.

7 Q. And are you describing hand highlighting with a
8 highlighter?

9 A. So on this we would hand highlight. On the
10 carrier envelope, we had a screenshot where on the
11 screenshot -- we didn't actually highlight the envelope,
12 we'd highlight the screenshot that would say this is
13 where it is on the carrier envelope.

14 Q. Got it. You can put that aside.

15 I'm quiet for a little bit. I'm skipping
16 questions.

17 A. No, no. Take your time.

18 Q. Did I understand right that you do plan media
19 spending for voter outreach in the future?

20 A. Yes.

21 Q. Do you know what your budget will be for that?

22 MS. LEBEL: Object to form.

23 A. In the past, I believe it's been around
24 \$15,000.

25 Q. (BY MR. STEWART) Is -- who allocates that

1 money?

2 A. Our county commissioner's court.

3 Q. Okay. Have you had any discussions about what
4 that number will look like in the future?

5 MS. LEBEL: Objection. This is going
6 beyond the scope of the notice topics and the parties'
7 stipulation.

8 MR. STEWART: Okay. I'll withdraw that
9 question.

10 Q. (BY MR. STEWART) I believe you already
11 answered questions from Ms. Hunker about how you
12 processed mail ballot materials during the General
13 Election, but I do just want to ask one follow-up about
14 that specific to the General Election.

15 During the General Election period, did
16 your office use the driver's license number or Social
17 Security number on mail ballot materials for any purpose
18 other than determining whether they could be accepted in
19 light of SB1?

20 MS. LEBEL: Object to form.

21 MS. HUNKER: Object to form.

22 A. No.

23 Q. (BY MR. STEWART) Turning briefly to the cure
24 process.

25 So I know -- I want to make sure I have

1 timelines right. I know you said that you used both
2 phone calls and returned mail in order to notify voters
3 of defects in mail ballot materials, right?

4 A. Yes.

5 Q. Did you call voters throughout the entire
6 General Election period when those materials were
7 received, or was there, let's say, a changeover point
8 where you went from mailing materials and return to
9 calling?

10 MS. LEBEL: Object to form.

11 MS. HUNKER: Object to form.

12 A. We called if we had numbers up until I believe
13 about five days before the deadline, and then we just
14 put everything in the mail, anything that was defect
15 that we were receiving.

16 So if we called you, and you -- we gave
17 you -- we gave 24 hours to call us back. If you didn't
18 call us within the next business day, then we just
19 mailed it back.

20 Most of the people we spoke to, 90 percent
21 said mail it back once we did get to them because they
22 didn't want to come in person. That's why they wanted
23 to vote by mail. So if we -- if you did tell us to hold
24 it, and that was a very small number, I believe, we
25 would. If you told us to mail it back, we would. And

1 office?

2 MS. LEBEL: Object to form.

3 MS. HUNKER: Object to form.

4 A. I'm sorry. A couple of times we would kind of
5 start going over it, and they would say, I'll just cure
6 on the ballot. Because they have to send the ballot
7 back anyway, so they have the notice of, you know,
8 defect. And if they can get on the -- there and send
9 it -- fix it on the ballot tracker or they can just send
10 the ballot back. And so a lot of times, they would just
11 say, I'll just send the ballot track back or the ballot
12 back.

13 Q. (BY MR. STEWART) Got it. Did any voters
14 request to cancel their mail ballot after being unable
15 to use the online portal?

16 A. Not that I know of.

17 Q. Did any voters, to your knowledge, during the
18 2022 General Election abandon their attempts to vote by
19 mail after being unable to use the cure portal?

20 MS. LEBEL: Object to form.

21 A. The way that we have the ballots, it would be
22 marked as rejected, and I don't know if that's just
23 because they couldn't use the core -- the -- the -- that
24 platform, but then went to -- to vote in person after
25 their ballot had been rejected.

1 Q. (BY MR. STEWART) Based on your experience in
2 the November 2022 General Election, do you believe the
3 number of eligible voters who had their ballots rejected
4 based on the ID number requirement will ever be zero?

5 MS. LEBEL: Object to form.

6 A. No.

7 Q. (BY MR. STEWART) And I believe you testified
8 previously that your office did not refer any voters to
9 any law enforcement, whether it be federal or state, for
10 potential fraud based on an ID mismatch or omission on
11 mail ballot materials; is that correct?

12 MS. LEBEL: Object on the basis of
13 investigation privilege.

14 A. Correct.

15 Q. (BY MR. STEWART) Leaving aside sort of whether
16 it was referred to law enforcement, are you aware of any
17 instances where fraudulent voting was identified during
18 the November 2022 General Election because of an ID
19 mismatch?

20 MS. LEBEL: Object to form.

21 MS. HUNKER: Object to form.

22 A. No.

23 Q. (BY MR. STEWART) Are you aware of any
24 instances in El Paso County during the November 2022
25 General Election where an ID number omission identified

1 an ineligible voter?

2 MS. LEBEL: Object to form.

3 MS. HUNKER: Object to form.

4 A. No.

5 Q. (BY MR. STEWART) Are you aware of any

6 instances in El Paso County during the November 2022

7 General Election where an ID number omission identified

8 someone impersonating the voter named on the mail ballot

9 materials?

10 MS. LEBEL: Object to form.

11 A. No.

12 Q. (BY MR. STEWART) Are you aware of any

13 instances in El Paso County during the November 2022

14 General Election where an ID number mismatched as

15 opposed to omission identified for your office an

16 ineligible voter?

17 MS. LEBEL: Same objection.

18 A. No.

19 Q. (BY MR. STEWART) Are you aware of any instance

20 in El Paso County during the November 2022 General

21 Election where an ID number mismatch as opposed to

22 omission identified someone impersonating the voter

23 named on the mail ballot materials?

24 MS. LEBEL: Same objection.

25 A. No.

1 Q. (BY MR. STEWART) For the November 2022 General
2 Election, did employees in your office receive any
3 training or guidance on when to refer a voter for
4 potential voter fraud to law enforcement based on an
5 omission or mismatch of the ID number on mail ballot
6 materials?

7 MS. LEBEL: Object to form.

8 A. I don't believe they received any training. I
9 mean, our office is -- is small enough as far as -- I
10 mean, our ballot by mail people I speak with all the
11 time. They -- I believe they would have brought that to
12 my attention.

13 Q. (BY MR. STEWART) Was that something
14 individuals in your office were looking for?

15 MS. LEBEL: Object to form.

16 MS. HUNKER: Object to form.

17 A. I don't think particularly.

18 Q. (BY MR. STEWART) And aside from the ID number
19 requirement -- and no need to get into details, just a
20 yes or no to protect the privilege -- did your office
21 make any referrals for other instances of potential
22 voter fraud besides the ID number requirement to law
23 enforcement during the November 2022 General Election?

24 A. No.

25 Q. Did your office receive any communications from